

APPENDIX

COMPRISING THE LAWS OF OLERON, THE LAWS OF WISBUY, THE LAWS OF THE HANSE TOWNS, AND THE MARINE ORDINANCES OF LOUIS XIV., MISCELLANEOUS MATTERS FROM THE APPENDICES OF THE UNITED STATES CIRCUIT AND DISTRICT COURT REPORTS AND BIBLIOGRAPHIC NOTES CONCERNING THE SAME, AND BIOGRAPHICAL NOTES OF THE FEDERAL JUDGES.

30 Fed.Cas.—74

30 Fed.Cas.—75

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## THE LAWS OF OLERON.

[Reprinted from 1 Pet. Adm. Append, iii.]

This Justly celebrated code was originally promulgated by Eleanor, Duchess of Guienne, the mother of Richard I. of England. Returning from the Holy Land, and familiar with the maritime regulations of the Archipelago, she enacted these laws at Oleron in Guienne, and they derive their title from the place of their publication. The language in which this collection of laws was originally clothed is that of Gascony, and their first object appears to have been the commercial operations of that part of France only.

By Richard I. of England, who inherited the dukedom of Guienne from his mother, this code was improved, and introduced into England. Some additions were made to it by King John, it was promulgated anew in the 50th year of Henry III., and received its ultimate confirmation in the 12th of Edward III.<sup>1</sup>

England and France contend for the honour of having originated this system of laws; but we only notice this circumstance to introduce the observation, that it affords the strongest testimony of the value of the collection, and of the high respect in which it is held by the two greatest nations of the world. Indeed it forms the basis of the celebrated Ordinances of Lewis XIV. of France and it is admitted as authority in the courts of common law, as well as the admiralty courts of England.

The translation now published is printed from the "Sea Laws," and the editor has carefully compared it with the copy published in French by Cleirac, in a work entitled "Les Us. et Coutumes de la Mer." He has not considered himself authorized to make any alterations in the text but wherever a variance between the copies has been discovered, he has pointed it out, and he has given the words of the French copy, with a particular reference to the passage from which, in his opinion, they differ.

The "notes and illustrations," which are highly valuable, will be found by a reference to Cleirac, to have been principally abridged from his work, and, indeed, in some instances they are extracted verbatim. While an acknowledgment of the source from whence they were derived, would have been honourable to the candour of the compiler of the Sea Laws, these Commentaries would have obtained increased authority from the reputation and talents of their real author, who is justly estimated among the most distinguished jurists of France.

### ARTICLE I.

When several joint owners make a man master of a ship or vessel, and the ship or vessel departing from her own port, arrives at Bordeaux, Rouen, or any other such place, and is there freighted to sail for Scotland, or some other foreign country; the master in such case may not sell or dispose of that ship or vessel, without a special procuration<sup>2</sup>

from the owners: but in case he wants money for the victualling,<sup>3</sup> or other necessary provisions of the said vessel, he may for that end, with the advice of his mariners, pawn or pledge part of the tackle or furniture of a ship.

Observation.

The title of master is so honourable, and the command of a ship of such importance, that great care has been taken by all maritime nations, that none may be employed but honest and experienced men. By an ordinance of the admiralty in France, A. D. 1584, every master of a ship before he took upon him that trust, was to be examined whether he was fit for it. The Spanish naval laws require the same thing: *El maestro de la nave, para serlo, ha de ser marinero y examinado. Cedula real del Anno 1576. Impresa con las de Indias quarto tomo.* The ordinances and regulations of the Hanse Towns, do not only demand experience and capacity, but honesty and good manners. And none was to be admitted into the service of any citizen aboard his ship, without a certificate of his qualifications, as to his honesty and capacity. See their Book of Ordinances, book 6, art. 1.

The Greeks called the master of a ship *Iliokav cujus field navis concreditur*, to whom the government of the ship is entrusted; but so, that the master cannot sell the ship itself, nor any of her tackle or furniture, without the order or consent of the owners. However, In case of necessity, when he is in a far country, he may pawn or pledge her tackle for provisions, and if that will not do, he may borrow money on the ship's bottom, though not without the consent of his officers and seamen. According to the Ordinances of Wisbuy, arts. 13, 15, and Philip II. King of Spain's Ordinances in the year 1563, art. 12. Those of the Hanse Towns forbids a master of a ship, notwithstanding he is part owner, not only to sell, but to do any thing, even to buy tackle or victuals, without acquainting the other owners of it, unless it be in a strange country, and in a case of necessity, well and lawfully attested. Articles 3-5 et seq.

By the ordinances and customs of the sea, it appears, that formerly it was not thought safe to entrust a master of a ship with the vessel

and cargo, unless he was a freeman of that city, and part-owner of the ship; and if he was part-owner, when he had betrayed or abused his trust, the other owners might turn him out of the ship, paying him what his part of her came to at the same price he gave for it. See Ordinances of the Hanse Towns, art. 14. And if he pretended he had sold his part to another person for more than it was worth, the other owners might have it appraised, and take it to themselves, paying him what it was valued at by such appraisement. Article 53.

The master commonly took care of every thing belonging to the ship, from the poop to the mainmast. He was obliged to understand the art of piloting and navigation, that he might know how to control the pilot, and mind how he steers the ship, *y si el maestre no fuere piloto es obligado a vevar un marinere diestro en la navegacion, tel que, pueda regir la nave a fala de piloto*, according to the ordinances of Spain. The mate's command reached from the stern to the mizzenmast, the latter included. It will not be thought improper by the curious to mention here the several officers of a ship, either men of war, or merchantmen, as they were distinguished aboard, a century of years ago.

In royal navies the first officer was the admiral; then the vice-admiral, then the captain-major or chief of a squadron. In every man of war, the first officer was the captain, the second the pilot, who enjoyed that place in honour of the sciences he protest and practised; next to him was the master, who had the charge of the tackle and furniture, and then the captain, and lieutenant of the soldiers. In a merchantman the first officer was the master, the second the pilot, the third the mate, the fourth the factor, or supercargo; then his assistant, accomptants, the surgeons, the steward, four corporals, the cook, the gunner, the cockswain; the gunner and cockswain used to work before the mast, as well as the rest of the ship's crew, but their wages were more. There is a great deal of difference between the order of precedency on board of a ship now and what was formerly: for the captain and lieutenant of the soldiers would think it very hard to give place to the pilot and master of a ship; and the factor, or supercargo, will as difficultly be persuaded to own the master of a vessel's superiority, except in what relates to the navigating the ship.

#### ART. II.

If a ship or other vessel be in a port, waiting for weather, and a wind to depart, the master ought when that comes, before his departure to consult his company, and say to them, Gentlemen, what think you of this wind? If any of them see that it is not settled, and advise him to stay until it is and others, on the contrary, would have him make use of it as fair, he ought to follow the advice of the major part: If he does otherwise, and the vessel happens to miscarry, he shall be obliged to make good the same, according to the value upon a just appraisement.<sup>4</sup>

Observation.

It is a maxim, or general sea law, that a master of a ship shall never sail out of a port, never weigh or drop anchor, cut masts or cable, or indeed do any thing of consequence, let him be in whatever danger may happen, without the advice of the major part of his company, and the merchants, if there be any aboard.—He must call all together to consult. Wisbuy, art. 14.

ART. III.

If any vessel, through misfortune, happens to be cast away, in whatsoever place it be, the mariners shall be obliged to use their best endeavours for saving as much of the ship and lading as possibly they can: and if they preserve part thereof, the master shall allow them a reasonable consideration to carry them home to their own country.<sup>5</sup> And in case they save enough to enable the master to do this, he may lawfully pledge to some honest persons such part thereof as may be sufficient for that occasion. But if they have not endeavoured to save as aforesaid, then the master shall not be bound to provide for them in any thing, but ought to keep them in safe custody, until he knows the pleasure of the owners, in which he may act-as becomes a prudent master; for if he does otherwise, he shall be obliged to make satisfaction.

Observation.

The ship's crew are obliged to do all that lies in their power to save things from shipwreck, and gather up what they save, on pain of losing their wages; and those that hinder or dissuade them from it, shall be severely punished. This law is very well explained by an ordinance of King Philip II. of Spain, in the year 1563, by which it is ordained, that the seamen shall be bound to save as much as they can from shipwreck; and in such case, the master is bound to pay them their wages, and to give them a further reward for their labour out of the goods. But if the seamen refuse to do their endeavor to save the goods, they shall neither have pay nor reward. Hanse Towns Ord. art. 44; Wisbuy, art. 15.

ART. IV.

If a vessel departing with her lading from Bordeaux, or any other place, happens in the course of her voyage, to be rendered unfit to proceed therein, and the mariners save as much of the lading as possibly they can; if the merchants require their goods of the master, he may deliver them if he pleases, they paying the freight in proportion to the part of the voyage that is performed, and the costs of the salvage. But if the master can readily repair his vessel, he may do it; or if he pleases, he may freight another ship to perform his voyage. And if he has promised the people who helped him to save the ship the third, or the half part of the goods saved for the danger they ran, the judicatures of the country should consider the pains and trouble they have been at, and reward them accordingly, without any regard to the promises made them by the parties concerned in the time of their distress.

Observation.

This law does not relate to an entire loss, but only to salvage, or rather not to the shipwreck, but to the disabling of a ship, so that she cannot proceed in her voyage without refitting. In which case the merchants may have their goods again, paying the freight in



proportion to the way the ship made. If the merchant has not money to pay the freight, and the master will not credit, the latter may take his goods in payment at the market price. "Wisbuy, art 33; Emperor Charles V. Ordinance, art. 40.

If the master can in a little time refit his vessel, and render her fit to continue her voyage, that is, if he can do it in 3 days time at the most, according to the Hanse Town Laws; or if he will himself take freight for the merchandize aboard another ship bound for the same port to which he was bound, he may do it; and if the accident did not happen to him by any "fault of his, the freight shall be paid him. *Lege Rhodior. Numb. 42, secundo & ultimo tomo juris Græco-Romani in fine; Wisbuy, arts. 16, 37, 55; King Philip II. of Spain's Ordinance, under the head of "Averages," art. 30.*

As for the charges of salvage, there are very great allowances made to the salvors, *lege Rhodior. secundo tomo juris Græco-Romani Nos. 45, 47; Hærmopolus in Promptuario Juris, lib. 2, tit. 6.* By this law there was adjudged to the divers and salvors, the half, the third or the tenth of the things saved, and that according to the depth of the water out of which they were fished, fifteen, eight or one fathom; as also a tenth part for salvage on the coast, and the fifth to him that saving him-self, carries and saves something with him. The promises that are extorted in danger on this account, ought always to be regulated according to justice, with reason and proportion, without keeping to the expressions of such promises; for this there are several laws in I France, and an instance of it is thus recorded. A gentleman named La Mothe, embarked at St. Machaire with two horses in a boat, going for Bordeaux; as they were in their passage, one of the horses grew furious, and leaped; overboard. La Mothe held him by the bridle; the horse splashed the water up in his face, and the gentleman pulling his handkerchief out of his pocket to wipe it off, at the same time pulled out a purse that had thirty pistoles in it, which fell into the water. The boatmen came, and La Mothe desired them to take notice of the place, by observing the trees and j buildings that were near it, and when the tide was out, to seek after the purse; promising if they found it, to give them a pistole for their pains. The boatmen excused themselves; nevertheless, when they had put La Mothe and his horses ashore, they went to look for the pistoles when it was low water, and one of them found them where they were dropt. His companions demanded their share of them, but he who had the good fortune to find the purse, would not let them have any of the gold, and there was a law-suit about dividing it, before the judge of St. Machaire. Monsieur La Mothe hearing of it, came thither and put in his claim to the purse and pistoles; but the judge gave it against him. He then appealed to the seneschal of Guienne's court, but with no better success; at last he appealed to the parliament of Bordeaux, and that court decreed, he should have his pistoles, but should pay 60 livres to the boatmen for their pains und trouble.

ART. V.

If a vessel departing from one port, laden or empty, arrives at another, the mariners shall not leave the ship without the master's consent: if they do, and by that means she happens to be lost or damnified, they shall be answerable for the damage; but if the vessel be moored, and lying at anchor, with a sufficient number of men aboard to keep the decks and lading, they may go without the master's consent, if they come back in good time; otherwise they shall be liable to make satisfaction, if they have wherewithal.

#### Observation.

This article relating to seamen, it will not be unacceptable to the reader to observe what other customs and ordinances we have met with concerning them.

Mariners are obliged to look carefully after every thing that relates to the preservation of the ship and goods. Consolato, c. 169; "Wisbuy, art. 47. For which reason, they ought not to go ashore and leave the vessel, without the master or mate's permission: if they do, they are bound to answer all the damages that happen to the ship or merchandize in their absence. "Wisbuy, art. 17. The emperor Charles "V.'s Ordinance in the year 1552, arts. 9 and 10, conformable to the Rhodian Law, secundo tomo juris Græco-Romani, Num. 20. The Regulations of the Hanse Towns, art. 40, ordain, that if any seaman goes ashore without license, and if in his absence the ship happens to be lost for want of hands, the seaman thus absent shall be apprehended, and kept a year in prison on bread and water; and if any one should be killed or drowned in his absence, and that be the cause of it, he shall be corporally punished. The same ordinances condemn those mariners that lie out of their ship all night, to pay all the damage that shall happen while they are absent. Those of the Hanse Towns, arts. 22, 23, add imprisonment. Some laws forbid them to undress themselves, and the Hanse Towns, art. 32, to lie with their wives aboard. The reason is, that they may always be ready to assist their fellows. in the discharge of their duty in the preservation of the ship and goods. The obligation of the mariner to the master, begins as soon as he is hired and terms are agreed; and ends when the voyage is finished, and they are returned. The obligation of the mariner to the merchant is from the beginning of his charge, and the mariner is obliged to stow and unstow the goods, according as the place they are in is commodious or not, to keep them from damnifying, and promote or hinder the ship's trimming; and if by their refusing to do so, the merchandize is damnified or spoilt, they are bound to make the damage good. "Wisbuy, art. 48; Philip H. art. 19. By the laws of "Wisbuy, they are also bound to unlade some goods with the shovel, and some to hand ashore; for which they are to have no extraordinary allowance; but for letting things up or down, they are by the same laws to be allowed something extraordinary, that is above their wages. The laws are very severe against those seamen that run away from ships after they are hired. In men of war, desertion is punished with death; in merchantmen, by the Hanseatic laws, or those of the Hanse Towns, they are to be marked in the face with a red hot iron, that they may be known, and be infamous

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as long as they live. If the mariner runs away before the voyage, when he is taken, he ought to refund half as much as the master was to have paid him for the whole voyage. If he hires himself to two masters, the first may demand him, and by the Hanseatic law, art. 1, he is not bound to pay him any wages. Provision is made for such seamen as run away, only because the master has used them ill. By the same laws, if any master entices away a mariner hired before by another, the last master shall forfeit to the first 25 livres, and the mariner, half the wages he was to have had of the master that so enticed him. That master who knowingly hires a mariner who was hired before, shall pay double the wages he was to pay the mariner, and the latter be bound to follow and serve the first master. However, a mariner may demand, and ought to have his discharge, either before or during the voyage, for these

four reasons: in case he is made master or mate of another ship; if he marries, and then he is obliged to refund what he has received; if he made any provision in his bargain for quitting the ship; if the voyage is finished, the ship disarmed, unloaded and light, the sails, tackle and furniture taken away and secured. See Laws Wisbuy, arts. 54, 63.

If the master gives a mariner his discharge, without any lawful cause, and for his pleasure only; in case he does it before the voyage, and while the ship is in port, he ought to pay half as much as he was to give him for the whole voyage; but if he discharges him after the ship is sailed, he ought to pay him all his wages. Wisbuy, art. 111.

By the Hanseatic law, the master is to pay a third of the wages only, and not to bring it to his owners' account. He is obliged also to pay him not only all his wages, if he discharges him in his voyage, but to defray the charges of his return. If after a bargain is made between the master and mariner, if the voyage happens to be hindered by war or pirates, or any other lawful account, the mariner, according to King Philip's Laws, art 9, shall have a quarter part of the wages that were promised him for the voyage; and the master by a French law shall have half the freight. A master may turn off a mariner if he finds he is ignorant in maritime affairs, and incapable to perform the voyage, particularly a pilot, to whom in such cases he is not bound to pay any wages, and at his return may have him punished for his rashness, according to King Philip's and the Hanseatic laws. If it happens that the master finds out the pilot or mariner's ignorance when he cannot discharge them, they shall be obliged at their return to refund all the money he had advanced to them, and pay the master besides half what he had promised them: but if the pilot declares first he is dubious, and cannot depend on his knowledge, that he is out of the way, and does not very well understand his business; if it is when he is outward bound, he shall be paid half what was promised him; if homeward bound, all. If the master finds that any officer or seaman aboard his ship has any infectious distemper that is dangerous, he may put him ashore at the first place he comes to, without paying him any thing; but then he must prove it by two or three witnesses. He may also turn away any thieving mariner, or any quarrelsome or factious fellow; but as to the latter, he should have a little patience, to see if he can be brought to reason. Vide Hanseatics, art. 29; Laws of Wisbuy, art. 25.

#### ART. VI.

If any of the mariners hired by the master of any vessel, go out of the ship without his leave, and get themselves drunk, and thereby there happens contempt to their master, debates, or fighting and quarrelling among themselves, whereby some happen to be wounded: in this case the master shall not be obliged to get them cured, or in any thing to provide for them, but may turn them and their accomplices out of the ship; and if they make words of it, they are bound to pay the master besides: but if by the master's orders and commands any of the ship's company be in the service of the ship, and thereby hap-

pen to be wounded or otherwise hurt, in that case they shall be cured and provided for at the costs and charges of the said ship.<sup>6</sup>

Observation.

By the Laws of Wisbuy, art. 18, those mariners that are mutinous and quarrelsome, are obliged to refund all they have received, and pay besides what the master is forced to give to others whom he hires in their places above the wages he was to give them.

The Laws of Charles V. art. 23 et seq., ordain certain punishments, according to the heinousness of the offences and crimes committed by seamen. If the mariners are wounded, or any wise hurt in serving the master of the ship, they shall be cured, taken care of, and indemnified at the charge of the ship. Wisbuy, art. 18; Hanseatics, art 39; Charles V. arts. 27, 28; Philip II. art. 16. If mariners are taken by corsairs in his, and his ship's service, the master is bound to redeem them, and besides that, to pay them their wages, during their captivity, as much as if they had all that time been in his service. This law is in the Consulat, c. 182. If in defending himself, or fighting against an enemy or corsairs, a mariner is maimed, or disabled to serve on board a ship for the rest of his life, besides the charge of his cure, he shall be maintained as long as he lives at the cost of the ship and cargo. Vide the Hanseatic Law, art. 35. An instance of this is told by our author.

In the year 1621, Giles Esteben, a citizen and merchant of Bordeaux loaded a vessel of 36 tuns with wine for Calais, and gave the charge of the cargo to one Fiton his servant. The vessel set sail, and when she was at sea met with a Turkish rover. The corsair came up with her, and took her, but did not meddle with the vessel or the wine, either because the Alcoran forbids the Mahometans to drink or deal in wine, or because he held intelligence with the master of the vessel, who was a Scotchman; for he did him nor any of his crew no manner of hurt, but took away Fiton and sold him in Barbary for a slave. He remained there four years and a half in great misery and poverty; at last he was redeemed by alms in the year 1625, and paid for his ransom 780 livres. Fiton returning to Bordeaux, found that his master Esteben was dead; however, he entered an action in an inferior court against the widow, for his wages, as well for the time he was detained in slavery, as for that before his captivity, as also for the reimbursement of his ransom money, his losses and interest. The widow removed the suit to the higher courts, and from thence it came before the parliament, who decreed, that the widow should pay Fiton 1000 livres in full for his wages, redemption, expenses, loss and interest

ART. VII.

If it happens that sickness seizes on any one of the mariners, while in the service of the ship, the master ought to set him ashore, to provide lodging and candlelight for him, and also to spare him one of the ship-boys, or hire a woman to attend him, and likewise to afford him such diet as is usual in the ship; that is to say, so much as he had on ship-board in his health, and nothing more, unless it please the master to allow it him; and if

he will have better diet, the master shall not be bound to provide it for him, unless it be at the mariner's own cost and charges; and if the vessel be ready for her departure, she ought not to stay for the said sick party <sup>7</sup>—but if he recover, he ought to

have his full wages, deducting only such charges as the master has been at for him. And if he dies, his wife or next kin shall have it

Observation.

The nineteenth article of the Laws of Wisbuy, the forty-fifth of the Hanseatic law, the twenty-seventh of Charles V., and the sixteenth of Philip H., which he compiled for the Low Countries, were all founded upon this law of Oleron, in what relates to a sick mariner, and agree exactly with it, both if he recovers his health, or dies in the voyage. The Spaniards have another custom in the West India voyages; for in case a mariner falls sick, he must substitute another in his place, otherwise he loses all his wages for the time in which he could not work. By the Hanseatic law, art. 45, if a mariner is detained ashore by sickness, the voyage ought not to be retarded on his account. By Charles V.'s ordinances, if the mariner dies as he is outward-bound, his wife and heirs shall receive half his pay: if as he is homeward-bound, they shall have all, deducting the charge of his funeral, if there has been any. In ships of war the custom in some places has been more favourable to sailors; for we find in a treatise written by Francis Pyrard de Laval, entitled, "Advis pour aller aux Indies Orientales," that if a man died the first day of the voyage, his heirs were to be paid as much as if he had completed it

ART. VIII.

If a vessel be laden to sail from Bordeaux to Caen, or any other place, and it happens that a storm overtakes her at sea, so violent, that she cannot escape without easting some of the cargo overboard for lightening the vessel, and preserving the rest of the lading, as well as the vessel itself; then the master ought to say, "Gentlemen, we must throw part of the goods overboard"; and, if there are no merchants to answer him, or if those that are there approve of what he says by their silence, then the master may do as he thinks fit; and if the merchants are not pleased with his throwing over any part of the merchandize, and forbid him, yet the master ought not to forbear casting out so many of the goods as he shall see to be for the common good and safety; he and the third part of his mariners making oath on the Holy Evangelists, when they arrive at their port of discharge, that he did it only for the preservation of the vessel, and the rest of the lading that remains yet in her. And the wines, or other goods, that were cast overboard, ought to be valued or prized according to the just value of the other goods that arrive in safety. And when these shall be sold, the price or value thereof ought to be divided livre a livre among the merchants. The master may compute the damage his vessel has sustained, or reckon the freight of the goods thrown overboard at his own choice. If the master does not make it appear that he and his men did the part of able seamen, then neither he nor they shall have anything. The mariners also ought to have one tun free<sup>8</sup> and another divided by cast of the dice, according as it shall happen, and the merchants in this case may lawfully put the master to his oath.

### Observation.

Of two evils, to choose the least is the law of nature as well as of nations; and when a ship is in danger of perishing, the lives of the seamen, and the safety of the rest of the cargo make the throwing part of it overboard the least evil. But that the master's ignorance or fear might not hurry him to do any thing to the detriment of the merchant, without good grounds for it, he must consult the merchants, passengers, or mariners aboard his ship, and, according as the necessity of it appears to them, to throw the goods overboard. This he is warranted to do by the Rhodian Law. *Secundo Tomo Juris Græco-Bomani*, Num. 9, and by 20th, 21st, and 38th articles of that of Wisbuy. The 20th and 38th articles provide also, that if the merchants alone are against the proposition of throwing the merchandize overboard, and the rest, who have their lives and goods also to lose, consent to it, the master and third part of the seamen purging themselves as soon as they come ashore by oath, that necessity forced them to do it, and that otherwise they could not have been saved, may do it and shall then be justified for what they did. The master is not obliged, when he comes to this extremity, to throw his own goods overboard first. The custom of the Levant is, the traveller or merchant first flings out something of "his own. Philip the Second's Ordinances, under the title of Avaradges, require, that the ship's utensils should be first thrown overboard, such as old cables, firewood, anchors and guns, which weigh heavy, and are not of the greatest service; then the chests belonging to the ship's crew, as being of the least value. All those things which are thrown overboard come into an average, except those that belong to the sovereign.

By the thirty-eighth article of the Laws of Wisbuy, the clerk of the ship ought to register all the goods that are thrown overboard; and if there is no clerk aboard, it is convenient for the mariners to make attestation of them at the first port they come to.

By the Rhodian Laws, the goods that are damaged by the storm come into an average. By the same laws, if the master, by overloading his ship, is the occasion of the goods being thrown overboard, he shall make good the damage. The Laws of Wisbuy, art. 46, except, in this case, those goods which were so laden with the consent of the merchant. If the master has let out more freight than he has stowage for, he must not therefore overload his own ship, but by the *Consolato* is bound to find freight for them in another. If the merchants, passengers or mariners have any plate or other precious goods in their chests or cabinets, they ought to inform the master and clerk of it; otherwise their chests will not be liable to any average for any thing more than what is known to be within them. Persons never are reckoned in an average, but all sorts of goods whatsoever. Victuals belonging to the ship are exempted from the laws for throwing goods overboard, and privileged from paying contributions in averages. Seamen's wages are not liable to averages. By the Hanseatic Law, art. 28, these wages ought to be paid by three payments, a



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third part before the ship goes out of the port, a third part when she is unladen, and a third part at her return.

By the Rhodian Law, the sailors ought to have

a ton freight free from contributions in averages, when goods are thrown overboard. To explain this it will be necessary to observe—that sailors were used to hire themselves out for a voyage for several considerations; some had a certain sum of money for the whole voyage, or so much a month, or so much a day; others hired themselves for such a proportion of the freight, or a liberty to load so much goods aboard, or let out so much freight to others. But the most common way, and the best of hiring themselves, was for part in wages, and part in freight, either for themselves or to let out. Those seamen who had wages only, contributed nothing to the average for goods thrown overboard. Those who had goods contributed, unless those goods were bought with their wages, and they had only one ton exempted. The merchants who hired their freight of them had the same privilege by it as themselves.

Having had occasion to make mention of *livre a livre*, an explanation of it will not be unacceptable to the reader. The civilians consider every thing as one whole; as for example, an inheritance composed of several parts, makes together one whole or mass of inheritance, of whatever importance it may be, great or small, as if the whole of his inheritance made one *livre*, one pound, as *hereditatis*. This pound divided into twelve equal parts, is named ounces. The merchants and masters of ships, in case of averages for goods thrown overboard, or damnified in storms, have the same view; that is, they consider the ship and cargo together as one pound, and the goods lost or damnified as another; so that he who had a tenth in the pound of the cargo, a fifteenth, or any other share, must carry a tenth, a fifteenth, or any other share to the pound of the average; and this proportion of one pound to another, is what is called by the French naval laws, “*liver a livre*” pound to pound

#### ART. IX.

If it happen, that by reason of much foul weather the master is like to be constrained to cut his masts, he ought first to call the merchants, if there be any aboard the ship, and such as have goods and merchandize in the vessel, and to consult them, saying, “Sirs, it is requisite to cut down the mast to save the ship and lading, it being in this case my duty.” And frequently they also cut their mooring cables, leaving behind them their cables and anchors to save the ship and her lading; all which things are reckoned and computed *livre* by *livre*, as the goods are that were cast overboard. And when the vessel arrives in safety at her port of discharge, the merchants ought to pay the master their shares or proportions without delay, or sell or pawn the goods and employ the money he raises to satisfy by it the same, before the said goods be unladen out of the said ship: but if he lets them go, and there happens controversies and I debates touching the premises, if the master observes collusion therein, he ought not to suffer, but is to have his complete freight, as well for what goods were thrown overboard, as for what he brought home.<sup>9</sup>

Observation.

No merchant is obliged to pay average for goods thrown overboard, unless the master can prove he did it for the safety of his own and his men's lives, and the preservation of the ship and the rest of her cargo. What loss happens by accidents, breaking the masts, or burning the sails, or pirates taking part of the goods, shall not come into the common average. By the Rhodian Laws, every merchant shall bear his own loss, and the master shall do the same. See also the twelfth article of the Laws of Wisbuy. Averages are by that to be paid for damages done ad intra, and not for those ad extra; therefore the master and mariners are obliged to purge themselves by oath, how the damage came, in the first court of admiralty they come to, and that it was done in very great necessity. Indeed if pirates take the ship and cargo entire, and both are redeemed for a sum of money, the average for that shall be common, and all the concerned shall pay contribution. If the merchants and passengers aboard the ship desire the master to put into any port out of his way for fear of pirates, and in going out of that port he loses anchors or cables, those who desired him to put in there shall pay for them, and the ship ought not to pay anything toward that loss. After a general shipwreck there is no average or common contribution, but save who save can, as is vulgarly said on this occasion. If any goods that were thrown overboard in a storm, to lighten the ship, happen to be recovered, the owner of them ought to restore what he had recovered for damages by average, to those that paid him, deducting for the loss he may be at by his merchandize being damnified. The Rhodian Law enjoins this.

ART. X.

The master of a ship, when he lets her out to freight to the merchants, ought to shew them his cordage, ropes, and slings, with which the goods are to be hoisted aboard or ashore; and if they find they need mending, he ought to mend them; for if a pipe, hogshead or other vessel, should happen by default of such cordage or slings to be spoiled or lost, the master and mariners ought to make satisfaction for the same to the merchants.<sup>10</sup> So also if the ropes or slings break, the master not shewing them beforehand to the merchants, he is obliged to make good the damage. But if the merchants say the cordage, ropes or slings are good and sufficient, and notwithstanding it happens that they break, in that ease they ought to divide the damage between them; that is to say, the merchant to whom such goods belong, and the said master with his mariners.

Observation.

By the twelfth article of the Laws of Wisbuy, and the seventh of King Philip's. the master when he lets his ship out to freight, is

bound to shew her to the merchants or their agents. The Consolato requires the same, and that the master should let the merchants visit not only the ropes, but all the ship above decks and below, that they may see what is wanting, and have it mended; and if it is not mended, and the merchandize is damnified, the master shall make good the loss. The forty-ninth article of the Laws of Wisbuy enjoins the mariners to give the master notice of the faults and defects in the cordage; otherwise they shall be responsible for all accidents that may happen; and if after such notice given, the master does not take care to have them mended, he shall answer the damage out of his own pocket.

The Rhodian Laws Secundo Tomo Juris Græco-Romani, Num. 11; wills and ordains, that the merchant who loads a ship, shall inform himself exactly of every thing, “Diligenter interrogare debet mercatores qui prius in ea navi navigaverunt.” The law says he should enquire of those that have sailed in her before; but that is of little use, except as to her sailing, for ships grow daily more and more out of repair, and should be always viewed by the person that is going to be concerned in them, without trusting to the information of others.

#### ART. XI.

If a vessel being laden at Bordeaux with wines, or other goods, hoists sail to carry them to some other port, and the master does not do his duty as he ought, nor the mariners handle their sails, and it happens that ill weather overtakes them at sea; so that the main yard shakes or strikes out the head of one of the pipes or hogsheads of wine; this vessel being safely arrived at her port of discharge, if the merchant alleges, that by reason of the main yard his wine was lost; and the master denies it: In this case the master and his mariners ought to make oath (whether it be four or six of them, such as the merchant hath no exception against) that the wine perished not by the main yard, nor through any default of theirs, as the merchants charge them, they ought then to be acquitted thereof; “but if they refuse to make oath to the effect aforesaid, they shall be obliged to make satisfaction for the same, because they ought to have ordered their sails aright before they departed from the port, where they took in their lading.

#### Observation.

This article is explained by the 23d of the Laws of Wisbuy, which ordains, that if the cargo is ill stowed, and the ship ill trimmed, and the mariners do not manage their sails rightly, and any damage happens by it to the ship or goods, they shall be responsible for the damages as far as they have wherewithal to do it with. There were formerly, in several ports of Guyenne certain officers called “arrameurs” or stowers, who were master-carpenters by profession, and were paid by the merchants, who loaded the ship. Their business was to dispose right, and stow closely all goods in casks, bales, boxes, bundles or otherwise; to balance both sides, to fill up the vacant spaces, and manage every thing to the best advantage. It was not hut that the greatest part of the ship’s crew understood this as

well as these stowers; but they would not meddle with it, nor undertake it, to avoid falling under the merchant's displeasure, or being accountable for any ill accident that might happen by that means. There were also sacquiers, who were very ancient officers, as may be seen in the 14th book of the Theodosian Code, Unica de Saccariis Portus Romæ, lib. 14. Their business was to load and unload vesels loaden with salt, corn, or fish, to prevent the ship's crew defrauding the merchant by false tale, or cheating him of his merchandize otherwise.

#### ART. XII

A master, having hired his mariners, ought to keep the peace betwixt them, and to be as their judge at sea; so that if there be any of them that gives another the lie, whilst they have wine and bread on the table, he ought to pay four deniers; and if the master himself give any the lie, he ought to pay eight deniers; and if any of the mariners impudently contradict the master, he also ought to pay eight deniers; and if the master strike any of the mariners, he ought to bear with the first stroke, be it with the fist or open hand; but if the master strikes him more than one blow, the mariner may defend himself: but if the said mariner doth first assault the master, he ought to pay five sols, or lose his hand.

#### Observation.

The law restrains the correction of the master to one blow with his fist, which the mariner ought to bear, and no more. The Consulate, c. 10, explains how far the mariner is bound to suffer his master's assaulting him, in these terms: "The mariner is obliged to obey his master, though he should call him ill names, and is enraged against him, he ought to keep out of his sight, or hide himself in the prow of the ship; if the master follows him, he ought to fly to some other place from him; and if he still follows him, then the mariner may stand upon his defence, demanding witnesses how he was pursued by the master; for the master ought not to pass into the prow after him."

The twenty-fourth article of the Laws of Wisbuy punishes the giving the lie. The same article is very severe against the mariner that strikes the master. The mariner that strikes, or lifts up arms against his master, was to lose half his hand in a very painful way. If the mariner has committed a crime too great for the master's authority to punish, then the master and his officers ought to seize the criminal, put him in irons,<sup>o</sup> and bring him to justice at his return.

#### ART. XIII.

If a difference happens between the master of a ship, and one of his mariners, the master ought to deny him his mess thrice, ere he turn him out of the ship, or discharge him thereof: but if the said mariner offer, in the presence of the rest of the mariners, to make the master satisfaction, and the master be resolved to accept of no satisfaction from him, but to put him out of the ship; in such case the said mariner may follow the said vessel to her port of discharge, and ought to have as good hire or wages, as if he had come

in the ship, or as if he had made satisfaction for his fault in the sight and presence of the ship's company; and if the master take not another mariner into the ship in his stead, as able as the other, and the ship or lading happens thereby to be, through any misfortune, damnified, the master shall be obliged to make good the same, if he hath wherewithal.

Observation.

To deny him his mess, is, in the original, *oter la touaille*, an old Gascon phrase, which signifies to deny him the table-cloth or victuals for three meals; by which is understood a day and a half. The Wisbuy Law, art. 25, provides for the master's making satisfaction for the damages that may happen through the want of the mariner he turns off. And the Laws of the Hanse Towns, art. 27, require the master not to give the seamen any cause to mutiny; not to provoke them, call them names, wrong them, nor keep any thing from them that is theirs; but to use them well, and pay them honestly what is their due. Some French laws ordain, that no mariner should be admitted under 18 years, nor above 50. The choice of the crew is entirely in the master: the reason is, that he ought to be himself very well assured of his seamen's ability, and not take it upon trust by report of others.

ART. XIV.

If a vessel, being moored, lying at anchor, be struck or grappled with another vessel under sail, that is not very well steered, whereby the vessel at anchor is prejudiced, as also wines, or other merchandize in each of the said ships damnified. In this ease the whole damage shall be in common, and be equally divided and appraised half by half;<sup>11</sup> and the master and mariners of the vessel that struck or grappled with the other, shall be bound to swear on the Holy Evangelists, that they did it not willingly or wilfully. The reason why this judgment was first given, being, that an old decayed vessel might not purposely be put in the way of a better, which will the rather be prevented when they know that the damage must be divided.

Observation.

This law agrees exactly with the 26th, 50th, 67th, and 70th articles of the Ordinances of Wisbuy. The dividing the loss in halves, is, to prevent any cheat; for an old vessel that's worth little or nothing, might else be put in a new one's way: and if she runs against her, more damages be pretended, than the old ship might fairly be valued at.

ART. XV.

Suppose two or more vessels in a harbour, where there is but little water, so that the anchor of one of the vessels lie dry; the master of the other vessel ought, in that case, to say unto him whose anchor lies dry: "Master, take up your anchor, for it is too nigh us, and may do us a prejudice;" if neither the said master nor his mariners will take up the said anchor accordingly, then may that other master and his mariners (who might be otherwise thereby damnified) take up the said anchor, and let it down at a farther distance from them; and if the others oppose or withstand the taking up of their anchor, and there afterwards happens damage thereby, they shall be bound to give full satisfaction for the same: but if they put out a buoy or anchor-mark, and the anchor does any damage, the master and mariners to whom it belongs are not bound to make it good; if they do not,

they are; for all masters and mariners ought to fasten such buoys or anchor-marks, and such cables to their anchors, as may plainly appear and be seen at full sea.

Observation.

The 28th and 51st articles of the Ordinances of Wisbuy, require masters to put out buoys to warn others where their anchors lie, on pain of making satisfaction for whatever damage may happen for want of them: for anchors hid under water, may do a great deal of mischief at ebb and low water. If any master spies them, and they lie near him, he may remove them, and prevent any damage coming to his ship. Harmenopulus in *promptuario titulo de rebus nauticis, licet in discrimen adductis, qui se aliter explicare non possunt, alterius navis anchoras salutis suæ causa præcidere*. The buoys that are made use of, are either empty barrels, or pieces of the trunk of a tree, or any other light wood with baskets that swim on the top of the-water, and shews where the anchors lie.

ART. XVI.

When a ship arrives with her lading at Bordeaux, or elsewhere, the master is bound to say to his company, when she is ready to load again, "Gentlemen, will you freight your own share yourselves, or be allowed for it in proportion with the ship's general freight?" the mariners are bound to answer one or the other. If they take as the freight of the ship shall happen, they shall have proportionably as the ship hath; and if they will freight by themselves, they ought to freight so as the ship be not impeded or hindered thereby. And if it so happen, that they cannot let out their freight, or get goods themselves, when he has tendered them their share or stowage, the master is blameless; and if they will there lade a tun of water instead of so much wine, they may: and in case there should happen at sea, an ejection or a casting of goods overboard, the ease shall be the same for a tun of water, as for a tun of wine, or other goods, *livre by livre*.<sup>12</sup> If they let out their proportion of freight to merchants, what freedom and immunity the said mariners have, the said merchants shall also have.

Observation.

This articles has some relation to the eighth, which treats of mariners' wages and their freight aboard. The thirtieth article of the Laws of Wisbuy is founded upon it. By the seamen's immunity, is meant the privilege of being the last that must throw overboard in a storm, and having a tun free from all averages. The mariners' freight should be first full; for the master is not obliged to stay for them when his cargo is all aboard. The reasons given by our author, why, in case of throwing overboard, the mariners' tun of water shall come in equally in the average, *livre a livre*, for a tun of wine, are, a mariner may make what use he pleases of his stowage, because he takes it as part of his pay: besides, in such case, the water he has aboard, lightens the ship as much as if it was wine. And the



mariner by throwing over his water, which by his-privilege he may refuse to do, not only helps to save the ship and cargo, but to save the latter the more entire; for if any thing the merchant had aboard, of more value than wine, stood before his tun of water, it must have gone first, and his throwing his water overboard being so much for the common interest of the ship and cargo, he is allowed to come in upon an average, as if it had been a tun of wine. How far this law of Oleron prevails in our maritime courts now, the civilians must determine; but by the common law of England, a tun of water would never be rated livre a livre, pound by pound, with a tun of wine.

ART. XVII.

The mariners of Brittany ought to have but one meal a day from the kitchen, because they have beverage going and coming. But those of Normandy are to have two meals a day, because they have only water at the ship's allowance; and when the ship arrives in a wine country, there the master shall procure them wine to drink.

Observation.

The custom of giving every man a certain allowance is very ancient, and to prevent jealousies, complaints and disorders, that allowance is settled at so much a head, and exactly delivered out to all alike. As to the allowance of wine and meals by this article, the twenty-ninth of the Ordinances of Wisbuy agrees with it. In those voyages where wine is to be had, the master is bound to provide it for the mariners, and then they shall have but one meal a day. But when they drink water only, they shall have two meals. Charles V. and Philip II.'s Laws ordain, that the master shall order the mariners to have three certain meals a day, and if they would have more meat, they shall only have what was last at their meals, unless upon extraordinary occasions. By the fifty-second article of the Hanseatic Laws, the masters of German ships bound for Prance and Spain, are not to provide victuals for their mariners when they are outward bound; but when they are homeward bound, if the ship is let out to freight and loaden, the masters are obliged to maintain their mariners; if they return light or empty, they are not obliged. The Portuguese in their East India voyages, maintain both mariners and soldiers outward bound, and allow each a pound and a half of biscuit, 3 pints of wine, and 3 pints of water a day, and 31 pound of salt fish a month, some dry fish, garlic and onions. But in their homeward bound voyages, they have only biscuits and water to the Cape of Good Hope, and after that they live every man on his own provision.

———Facilis descensus ad Indos:

Sed revocare gradum, veteremque evadere ad

Orbem,

Hoc opus, hic labor est———

In cases of necessity, when provisions fall short, those that have victuals aboard ought to communicate to those that have not, by the Rhodian Law.

### ART. XVIII

When a vessel is unladen, and the mariners demand their freight, some of them having neither bed, chest, nor trunk aboard, the master may lawfully retain part of their wages, till they have brought back the ship to the port from whence she came; unless they give good security to serve out the whole voyage.

#### Observation.

The thirty-first article of the Ordinances of Wisbuy agrees exactly with this. The seamen's wages are not regularly due till after their work is entirely done, or the time they hired themselves for expired; except there are any private agreements to the contrary. The twenty-eighth article of the Hanseatic Law ordains, that their wages should be paid at three several payments; one third when they set sail upon a voyage, one third when they arrive at their port of discharge, and the other-third when the ship is returned home.

### ART. XIX.

If the master hire the mariners in the town to which the vessel belongs, either for so-much a day, week or month, or for such a share of the freight; and it happens that the ship cannot procure freight in those parts where she is arrived, but must sail further to obtain it: in such case, those that were hired for a share of the freight, ought to follow the master, and such as are at wages ought to have their wages advanced course by course, that is, in proportion to the length of the voyage, in what it was longer than they agreed for, because "he hired them to one certain place. And if they go not so far as that place for which the contract was made, yet they ought to have the whole promised hire, as if they had gone thither; but they ought likewise to bring back the vessel to the place from whence she at first departed.

#### Observation.

This article is explained by the eighth and sixteenth, and what is said upon them. The thirty-second of the Laws of Wisbuy, the twelfth and thirteenth of Charles V., and the twenty-fourth of the Hanseatic Laws, are to the same purpose. By the ninth article of Philip II's-Laws, if the voyage is broken off by wars, pirates, or the command of the sovereign, the seamen, ought to have a quarter part of the wages they agreed to have, if they had completed it. In the year 1626, about October, all the English ships that were then in the river of Bordeaux, were stopped by order of Monsieur de Luxemburgh, governor of Blaye. Several of these ships were loaden with wine, and others with other merchandize. They were forced to return to Bordeaux, and unload; after which the masters demanded the whole freight of the merchants who had freighted them, by virtue of the law. *Colonus §. Navem conduxit. D. Locati.* Inasmuch as it was not their faults-that they did not make their voyage, and carry the goods to their intended port: the freight was then 15 or 16 livres a tun: the admiralty court adjudged them a quarter part of it; they appealed to the

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sovereign court, who after two hearings set aside their appeal. Which instance of our author, makes somewhat against his own remarks.

ART. XX.

When a vessel arrives at Bordeaux, or any other place, two of the mariners at a time may go ashore, and take with them one meal of such victuals as are in the ship, therein cut and provided; as also bread proportion-ably as much as they eat at once, but no drink: and they ought very speedily, and in season, to return to their vessel, that thereby the master may not lose his tide;

for if so, and damage come thereby, they are bound to make satisfaction; or if any of their company be hurt for want of their help, they are to be at such charge for his recovery, as one of his fellow mariners, or the master, with those of his table shall judge convenient.

Observation.

The reason of this law now ceases for Bordeaux, for which place it was originally intended; for the said river is so full of eating-houses and taverns on both sides, that it is not likely sailors will carry any of their salt provisions ashore, when they can get fresh. The reason of it was to keep the seamen in health and vigour; for by encouraging them to go ashore, two at a time, when their attendance was not necessary aboard, the master gave them an opportunity to refresh themselves at land, which is the best remedy in the world for the scurvy, contracted on shipboard by living on salt meats and dry biscuit, and being crowded up in a close place for a considerable time: their eating fresh provisions, and breathing the free air at land, makes them strong, and the better able to go through their business. It was not lawful for mariners to be drunk, nor to feast on shipboard, unless there was good cause for their feasting, and the master allowed it. As we find by the thirty-first article of the Hanseatic Law, and the old law of Rhodes, *Vector in navi piscem ne frigit, & exercitor id ei ne permittito*,—as one of his fellow mariners. In the original, it is “son matelot,” which we in English call “comrade”; for it is the custom at sea to divide the ship’s crew into couples: every two are comrades, and this the French call “matelotage.” These two companions, or comrades should be loving and assisting to one another. Their task is generally the same, and they are always posted together.—Those of his table. The mariners in Spanish ships dress their meat, and pay for it. each man for himself; but in the English, Dutch, German and French, there is always a cook, and the seamen eat all together at the same table, six in a mess. There is commonly two tables; the master’s, which is served with a table-cloth, and there himself and his officers eat; and the mariners, where they have their messes.

ART. XXI.

If a master freight his ship to a merchant, and set him a certain time within which he shall lade his vessel, that she may be ready to depart at the time appointed, and he lade it not within the time, but keep the master and mariners by the space of eight days, or a fortnight, or more, beyond the time agreed on, whereby the master loses the opportunity of a fair wind to depart; the said merchant in this case shall be obliged to make the master satisfaction for such delay, the fourth part whereof is to go among the mariners, and the other three-fourths to the master, because he finds them their provisions.<sup>13</sup>

Observation.

The thirty-fourth article of the Ordinances of Wisbuy, and the thirty-ninth of the emperor Charles V., are entirely agreeable to this law. By the Hanseatic Law and Philip II.’s the merchant is obliged to pay the whole freight, if he does not load the ship in 15 days

after the time agreed upon; and by the Theodosian Code de Naviculariis, when a vessel arrives at a pori loaden, the merchant to whom the cargo belongs, must unload in 10 days; but in our times, on account of holydays and Sundays, the common time for unloading a ship is 15 days-, but that should not hinder the paying the freight, which ought to be cleared in eight days, whether the ship be discharged or not. The master for his pay cannot detain the merchandize aboard; but when they are in the boat or lighter, he may stop them until he is satisfied.

ART. XXII.

When a merchant freights a vessel at his own charge, and sets her to sea, and the said vessel enters into an harbour, where she is wind-bound, so that she stays till her monies be all spent, the master in that case ought speedily to write home to his own country for money; but ought not to lose his voyage on that account; for if so happen, he shall be obliged to make good to the merchant all damages that shall ensue. But the master may take part of the wines or other merchant goods, and dispose thereof for his present necessities; and when the said vessel shall be arrived at her port of discharge, the said wines that the master hath so disposed of, ought to be valued and appraised at the same rate as the other wines shall be commonly sold for, and accordingly be accounted for to the merchant. And the master ought to have the freight of such wines, as he hath so taken and disposed of, for the use and reason aforesaid.

Observation.

The thirty-fifth and thirty-ninth articles of the Laws of Wisbuy are to the same purport as this; but by the sixty-eighth article of those laws, if the ship happens afterwards to be cast away, the master shall pay the merchant for the wines or other goods he sold in a case of necessity, without pretending to deduct any thing for the freight. The Hanseatic Laws forbid any master to borrow any money on any other security but the ship's bottom, that if she should be lost the debt might be paid; nor do they allow him when he is at home, the borrow any thing on her bottom, or otherwise, without acquainting the owners with it By the forty-fifth article of the Laws of Wisbuy. the ship is bound to the merchant whose goods the master has sold in this manner, to make him satisfaction, though she should be herself sold, and have other owners.

ART. XXIII.

If a pilot undertakes the conduct of a vessel, to bring her to St. Malo, or any other port, and fail of his duty therein, so as the vessel miscarry by reason of his ignorance in what he undertook, and the merchants sustain damage thereby, he shall be obliged to make full satisfaction for the same, if he hath wherewithal; and if not, lose his head.

ART. XXIV.

And if the master, or any one of his mariners, or any one of the merchants, cut off his head, they shall not be bound to answer for it; but before they do it, they must be

sure he had not wherewith to make satisfaction.

#### Observation on the Two Foregoing Articles.

The original calls these pilots “locmen”; for when those laws were written, there were officers aboard all ships, called pilots, who went the whole voyage, whereas the locmen were like our pilots, mariners hired at every river to guide the ship; for, dwelling on the place, the locman was supposed to know the shore better than the ship’s pilot, who perhaps was never there before; for which reason he commonly required the master to have a locman, to avoid rocks, shelves, shoals and sands, which he must be well acquainted with by long using the river: that of Roan is very dangerous on this account, and there are sworn pilots every two leagues to guide ships up the Seine. They are very necessary all over Brittany. The forty-fourth and fifty-ninth articles of the Ordinances of Wisbuy, oblige the master to take a new pilot, if his own and the ship’s crew demand one of him. The master finds him maintenance, and the merchant pays him, by the sixtieth article of the Ordinances of Wisbuy. The loss of the pilot’s head, if through his ignorance or negligence the ship is lost, is taken from the Consolato, c. 250,—and answers to that known maxim in the law, “Qui non habet in ære, luet in corpore.”

#### ART. XXV.

If a ship or other vessel arriving at any place, and making in towards a port or harbour, set out her flag, or give any other sign to have a pilot come aboard, or a boat to tow her into the harbour, the wind or tide being contrary, and a contract be made for piloting the said vessel into the said harbour accordingly; but by reason of an unreasonable and accursed custom, in some places, that the third or fourth part of the ships that are lost, shall accrue to the lord of the place where such sad casualties happen, as also the like proportion to the salvors, and only the remainder to the master, merchant and mariners: the persons contracting for the pilotage of the said vessel, to ingratiate themselves with their lords, and to gain to themselves a part of the ship and lading, do like faithless and treacherous villains, sometimes even willingly, and out of design to ruin ship and goods, guide and bring her upon the rocks, and then feigning to aid, help and assist, the now distressed mariners, are the first in dismembering and pulling the ship to pieces; purloining and carrying away the lading thereof contrary to all reason and good conscience; and afterwards that they may be the more welcome to their lord, do with all speed post to his house with the sad narrative of this unhappy disaster; whereupon the said lord, with his retinue appearing at the places, takes his share; the salvors theirs; and what remains the merchant and mariners may have. But seeing this is contrary to the law of God, our edict and determination is, that notwithstanding any law or custom to the contrary, it is said and ordained, the said lord of that place, salvors, and all others that take away any of the said goods, shall be accursed and ex-communicated, and punished as robbers and thieves, as formerly hath been declared. But all false and treacherous pilots shall be con-

demned to suffer a most rigorous and unmerciful death; and high gibbets shall be erected for them in the same place, or as nigh as conveniently may be, where they so guided and brought any ship or vessel to ruin as aforesaid, and thereon these accursed pilots are with ignominy and much shame to end their days; which said gibbets are to abide and remain to succeeding ages on that place, as a visible caution to other ships that shall afterwards sail thereby.

ART. XXVI.

If the lord of any place be so barbarous, as not only to permit such inhuman people, but also to maintain and assist them in such villanies, that he may have a share in such wrecks, the said lord shall be apprehended, and all his goods confiscated and sold, in order to make restitution to such as of right it appertaineth; and himself to be fastened to a post or stake in the midst of his own mansion house, which being fired at the four corners, all shall be burnt together, the walls thereof shall be demolished, the stones pulled down, and the place converted into a market place for the sale only of hogs and swine to all posterity.

Observation on the Two Foregoing Articles.

We shall find something very curious in the remarks made by the French author on these articles. These two laws, says he, were made upon account of that inhuman *Droit de Brissur le Naufrages*, the right of lords of coasts to shipwrecks; by which those miserable wretches who were cast away, their very persons, and the goods that were saved, were confiscated for the prince who was lord of the coast. In the barbarous times men used to put this law in practice, especially the Gauls, who took all strangers for their enemies, and not only robbed them of their goods, but of their lives, sacrificing them to their false gods. From which bloody custom, Hercules brought them off according to Diodorus Siculus, lib. 5, Hist. cap. 2. Pomponius Mela, lib. 3, de Situ Orbis, cap. 2. The Romans, though they were covetous to excess, and greedy after other men's goods, never approved of this cruelty, but condemned and abrogated the use of it to the utmost of their power. *Toto titulo de Incendio, Ruina & Naufragio. Et de Naufragiis libro undecimo Codicis, leg. 1, and leg. 3.* But the empire degenerating in its decadency, when so many barbarous nations poured in upon it out of Scythia and Scandinavia, and tore it to pieces; this wicked *Droit de Brisk sure le Moorages* was renewed, particularly on the coasts of Gaul, called *Dittos Aconitum*, on account of the frequent invasions of the Saxons there. *Simonies Apollinaris, lib. 8, epist. 6, & carmine septimo.* Afterwards the Normans being by chance thrown upon that coast, were immediately dispatched by the inhabitants; and in course of time this pretended right insinuated itself, and prevailed not only against enemies and invaders, but against any persons that were shipwrecked. *Quid quid evadebat ex naufragiis totum sibi fiscus lege patriæ vindicabat, passosque naufragium miserabilius violentia prin-*

cipis spoliabat quam procella, as says Hildebertus Turonensis, Archiepisc, epist. 32 & 65.  
At last the counts and dukes of Armoreck, Bretagne



and Gaul, were obliged by civility, and the request of the neighbouring people of Bordeaux and Rochelle, to change this barbarous custom of slavery and confiscation, into a tax for all such as procured licences from them; of which licences there were three sorts, *Bref de Sauveté*, *Bref de Conduite*, and *Bref de Victualle*. The first was to save them in case of shipwreck from the old forfeitures to the lord, and exempt them from the cruel *Droit de Bris*. The second was to allow them convoy upon reasonable terms. The third was for liberty to buy provisions in Bretagne. The dukes of Bretagne established an office and officers for giving out these licences, as at Rochelle and other places. The *Droit de Bris* was also practised in Guienne, Sainctonge, Artois and Poictou, but much more civilly and humanely than it was used in Bretagne; for the lords of the coasts took only a third or a quarter part, according to their several customs; the salvors as much; and the rest was restored to the poor wretches that were shipwrecked, and their persons were free. This barbarity is abolished in England, Italy, Germany, Spain and Prance, unless it be practised against the enemies of the state, infidels or pirates; but the Spaniards observe this custom beyond the line against all but natural Spaniards. This *Droit de Bris*, which was not however so cruelly executed in Guienne, as in Bretagne, was solemnly abrogated by Henry III., king of England and duke of Aquitain and Guienne. His edict for this purpose is registered and preserved among the rolls at Bourdeaux, and is as follows:

“*Henricus Dei gratia rex Angliæ, dominus Hiberniæ. dux Normand. Aquitan. & comes Andegavensis. Archiepiscopis, episcopis, abbatibus. prioribus, comitibus, baronibus, justitiæ præpositis et magistris, et omnibus ballivis et fidelibus salutem: Sciatis quod nos pro salute animæ nostræ, et antecessorum hæredum nostrorum, et ad malas consuetudines abolendas concedimus, et hac nostra carta econfirmamus pro nobis et hæredibus nostris in perpetuum, quod quotiescunque contigerit de cetero aliquam navem periclitari in potestate nostra, sive in costera maris Angliæ, sive in costera Pictaviæ, sive in costera insulæ Oleronis, sive in costera Vasconia. Et de navi taliter periclitata aliquis homo vivus evaserit, et ad terrain venerit, omnia bona et catalla in navi istæ contenta remaneant, et sint eorum quorum prius fuerant, et eis non depereant nomine Ejecti. Et si de navi taliter periclitata nullo vivo homine evadente contingat, qualemcunque bestiam vivam evadere, vel in navi illa vivam inveniri; tunc bona et catalla illa per manus ballivorum nostrorum, vel hæredum nostrorum, vel per manus ballivorum dominorum in quorum terra navis fuerit periclitata libenter quatuor probis hominibus custodienda deponantur usque ad terminum trium mensium: Ut si illi quorum catalla illa fuerunt intra terminum illum venerint. ad exigenda catalla illa, et probare possint catalla illa sua esse, eis libenter restituant. Si vero infra prædictum terminum nullus venerit ad exigenda catalla sua, tunc nostra sint et hæredum nostrorum nomine Ejecti, vel alterius qui libertatem habet ejectum habendi. Si veru de navi taliter periclitata nullus homo vivus evaserit, nee alia bestia sicut prædictum est, tunc bona et catalla in navi illa contenta nostra sint et hæredum nostrorum*”

nomine Ejecti, vel alterius ubi navis fuit periclitata qui libertatem habet ejectum habendi: Quod volumus, et firmiter præcipimus pro nobis et hæredibus nostris. His testibus, venerabili patre Edvardo Karkol, episcopo, Bertrando clerico comiti Lincol. et constabulario, Petro de Mulolacu, Henrico de Trubleville, tunc senescaldo Vasconiaë, Hugo de Dispencie, Godefrido Crantonibus, Amande Santo-Amando, Gulielmo de Crob. Anno 1226. Regni nostri vigesimo.”

As to that part of these laws requiring traitorous pilots to be hanged on the shore, in some eminent place, to be a warning to all mariners; Andronicus, emperor of Greece, who reigned about the year 1150, ordered the same or the like punishment for such as made spoil of wrecks, as Nicetas reports in the second book of his Annals. The Lord Verulam in his History of Henry VII. writes, that it was heretofore the custom in England to leave the dead bodies of pirates on gibbets near the water side, for a warning to seafaring men. *Morte affecti circa oras maritimas, ut loco signorum nauticorum & laternarum essent, & asseclas a littoribus Angliæ absterreere possent.* The hanging such as are condemned for crimes committed at sea by the water side, and some of the most criminal in chains, has been practised since in this kingdom. Those malicious fishermen, who in the night make fires in dangerous places to attract mariners thither, to the loss of their ships by making them believe they are near ports and inhabited places, deserve the same punishment. The author whom we have made use of on this occasion tells us, that “catalla,” a word in king Henry’s charter, is originally Gascon, and signifies riches or merchandize. The Picards in their idiom have it “cateus,” in Spanish it is “caudal,” and in English “chattels,” than which no term is more-frequent in the common law. The word in the French which is rendered “caution” in English, is “belise,” properly a beacon; but in this place it is used metaphorically: for a gibbet would be an odd sort of a beacon in our language. There are several sorts of these belises or beacons at sea, set up to direct mariners to the right course they ought to take to avoid danger. These are very necessary in those parts where there are bars, that is, entrances, where there must be a high tide to carry ships over them. Sometimes buoys are made use of for belises, and sometimes trees, light-houses, and other things. The burning the criminal’s house, mentioned in these two articles, and all that is in it, shews what an opinion the legislator had of the heinousness of the crime. Coiners were in France burnt in old times, and their false money with them; their buildings were levelled with the ground, their woods felled and rooted up, and the places that belonged to them condemned and strewed with salt, as was the town of Poicters, in the reign of King Dagobert.

#### ART. XXVII.

A vessel being arrived at her port of discharge, and hauled up there into dry ground, so as the mariners deeming her to be in good safety, do take down her sails, and so fit the vessel aloof and aft, the master then ought to consider an increase of their wages kenning

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by kenning; and if in hoisting up wines, it happens that they leave open any of the pipes or other vessels, or that they fasten not the ropes well at the ends of the vessel, by reason whereof it slips, and falls, and so is lost, and falling on another, both are lost; in these cases the master and mariners shall be bound to make them good to the merchants, and the merchants must pay the freight of the said damaged or lost wines, because they are to receive for them from the master and mariners, according to the value that the rest of the wines are sold; and the owners of the ship ought not to suffer hereby, because the damage happened by default of the master and mariners, in not making fast the said vessels or pipes of wine.

### Observation.

Kenning by kenning, veue par veue, is a phrase used by mariners, as is also course by course, in the nineteenth article of these laws. These phrases are very ancient, and kenning was particularly used when navigation was performed by views, and by observations on the land from one prospect to another (Plin. lib. vi, c. 13), which was before the invention or knowledge of the use of the compass. It signifies what the logicians or metaphysicians called agreement; the arithmeticians and geometricians proportion, and others express otherwise.

### ART. XXVIII.

If two vessels go on a fishing-design in partnership, as for mackarel, herrings, or the like, and do set their nets or lay their lines at Olonne, St. Gilles, Survie, or elsewhere; the one of the vessels ought to employ as many fishing engines as the other, And so shall go in equal shares, as to the gain, according to the agreement betwixt them made. And if it happens that one of the said vessels, with her fishing-instruments, engines and crew, perish, and the other escaping, arrives in safety; if the surviving friends of those that perished, require of the other to have their part of the gain, as also of their fish, fishing-instruments, and boat, they are to have, upon the oaths of those that escape, their part of the fish, and fishing-instruments; but they shall not have any part or share in the vessel itself.

### ART. XXIX.

If any ship or other vessel sailing to and fro, and coasting the seas, as well in the way of merchandizing, as upon the fishing Account, happen by some misfortune through the violence of the weather to strike herself against the rocks, whereby she becomes so bruised and broken, that there she perishes, upon what coasts, country or dominion soever; and the master, mariners, merchant or merchants, or any one of these escape and come safe to land; in this case the lord of that place or country, where such misfortune shall happen, ought not to let, hinder, or oppose such as have so escaped, or such to whom the said ship or vessel, and the lading belong, in using their utmost endeavours for the preservation of as much thereof as may possibly be saved. But on the contrary, the lord of that place or country, by his own interest, and by those under his power and jurisdiction, ought to be Aiding and assisting to the said distressed merchants or mariners, in saving their shipwrecked goods, and that without the least embezzlement, or taking any part thereof from the right owners; but, however, there may be a remuneration or consideration for salvage to such as take pains therein, according to right reason, a good conscience, and as justice shall appoint; notwithstanding what promises may in that case have been made to the salvors by such distressed merchants and mariners, as is declared in the fourth article of these laws; and in case any shall act contrary hereunto, or take any part of the said goods from the said poor, distressed, ruined, undone, shipwrecked persons, against their wills, and without their consent, they shall be declared to be excommunicated by the church,

and ought to receive the punishment of thieves; except speedy restitution be made by them: nor is there any custom or statute whatsoever, that can protect them against the aforesaid penalties, as is said in the twenty-sixth article of these laws.

Observations on the Two Foregoing Articles.

The civil law almost every where allows all shipwrecked persons, a right to gather up their shipwrecked goods. The Codex and the Rhodian Laws are particular in this matter. King Henry III.'s charter, before recited, is very plain upon it; and the reader is referred to it.

#### ART. XXX.

If a ship or other vessel entering into harbour, happens by misfortune to be broken and perish, and the master, mariners and merchants, which were on board her, be all drowned; and if the goods thereof be driven ashore, or remain floating on the sea, without being sought after by those to whom they belong, they being ignorant of this said disaster, and knowing nothing thereof; in this most lamentable case, the lord of that place or country ought to send persons to save the said goods, which he ought to secure and to put into safe custody; and give the relations of the deceased persons who were drowned, notice of it, and to satisfy for the salvage thereof, not out of his own purse, but of the goods saved, according to the hazards run, and the pains taken therein; and what remains must be kept in safe custody for one year or more; and if in that time they to whom the said goods appertain, do not appear and claim the same, and the said year be fully expired, he may publicly sell and dispose thereof to such as will give most, and with the monies proceeding of the sale thereof, he ought to give among the poor, and for portions to poor maids, and other charitable uses, according to reason and good conscience. But if he assumes the said goods either in whole or in part unto himself, he shall incur the curse and malediction of our mother the holy church, with the aforesaid pains and penalties, without ever obtaining remission, unless he make satisfaction.

#### Observation.

The keeping such goods a year, is in the civil law (1. ii, Cod. Naufragiis); but the parliament of Paris in the year 1584, pretended to reduce the time to two months: which time was to commence from the day of proclaiming such goods in public market and fixing a placquard of it on the doors of the parish church. The Consulate provides for the salvors more largely, allowing them half of the goods saved, and the lord and the poor the other half (chapter 252). By some laws in France, as long as the goods are in being and

unalienated, the merchant to whom they belong, has a claim to them, paying the charge of salvage: but if after a lawful time, they are sold and become another's property, he has no claim to them. The casuists are of opinion, that if he who finds them is rich, he ought to give all to pious uses: if poor, to keep all himself, *hostiensis in summa de poenitentia*. And the thirty-sixth article of the laws of Oleron agrees with the judgment of the casuists

ART. XXXI.

If a ship or other vessel happens to be lost by striking on some shore, and the mariners thinking to save their lives, reach the shore, in hope of help, and instead thereof it happens, as it often does, that in many places they meet with people more barbarous, cruel, and inhuman than mad dogs, who to gain their monies, apparel, and other goods, do sometimes murder and destroy these poor distressed seamen; in this case, the lord of that country ought to execute justice on such wretches, to punish them as well corporally as pecuniarily, to plunge them in the sea till they be half dead, and then to have them drawn forth out of the sea, and stoned to death.

Observation.

To plunge them in the sea, "plonger en lamer," is what the French now call "bailler la cale," and we "keel-hawling." The word "Kalanovriopus," in Greek, signifies as much. The Goths heretofore used to practise it as a sport or exercise, *Olaus magnus historiæ Septentrionalis*, lib. v, et lib. x, c. 16. And one may conceive an idea of the barbarity of the northern nations, when that was a diversion to them, which was a punishment to others; as it was of old among the Celtes and Franks, and is now among the modern navigators. Lazy and scandalous persons had some such sort of punishment by the customs or laws of the old Germans, *Tacitus de Moribus Germanorum*, Num. 5. Turnus Herdonius was punished thus to death for abusing and railing at the king Tarquinius Superbus, *T. Livius*, lib. primo decadis primæ. Bawds and whores are served so at Bordeaux; and scolds something like it in England, when they are put into the ducking stool. By an old ordinance of Philip II, of France, blasphemers had the same punishment. The comparison of a mad dog is perhaps made use of here, on account of the cure for his bite, by plunging in the sea before the poison has taken too deep root, which is reckoned the most sovereign remedy for it. *Augustine de Moribus Manicheor*. lib. ii, cap. 8. *Apuleius Metamorphos*. lib. 9. It is said Baldus the great civilian, died miserably of the bite of his favorite dog, though the bite was very inconsiderable, as to any thing but the effects of it; see the twenty-first book of *Ambrose Parre's Treatise of Poisons*: and *Diogenes the cynic*, according to *Laertius*, died the same death. My author has tempted me unawares to this digression, which he very ridiculously continues about a hundred times as long; for in truth it may well be called a digression, at least, all that is not necessary to explain the metaphor in the text, and much farther we have not gone.

ART. XXXII.

If by reason of tempestuous weather, it be thought expedient, for the lightening of any ship or vessel at sea, or riding at anchor in any road, to cast part of the lading overboard, and it be done accordingly for the common, safety, though the said goods so ejected, and east overboard, do become his that can first possess himself thereof, and carry them away: nevertheless, it is here to be further understood, that this holds true only in such cases, as when the master, merchant, and mariners have so ejected or cast out the said goods, as that they give over all hope or desire of ever-recovering them again, and so leave them as things utterly lost and given over by them, without ever making any enquiry or pursuit after them: in which case only the first occupant becomes the lawful proprietor thereof.

Observation.

The property of things thrown overboard remains in the merchant, and the finder has no-right to them, unless they were thrown out with an intention to leave them there, and look no more after them (1. 2, in fine, 1. qui levandæ D. Lege Rhodia. 1. quod ex naufragio). D. de acquirenda vel amittenda possessione. Neptunus fastidiosus ædilis est. Si quæ sunt improbæ merces jactat omnes; as Plautus says in Stichor. The sea drives all things to land: mari hæc est natura, ut omne immundum, stercorosumq; littoribus impingat, Seneca naturalium quæst. lib. iii, cap. 26. On this assurance, every one that flings his goods overboard in time of danger, hopes and desires to recover them again after seeking for them, and those things non sunt in derelicto, sed in deperdito. 1. Si quis merces. D. pro derelicto. It is true, what is abandoned through contempt or carelessness belongs to the first occupiers; quod dominus ea mente adjecit, ut in numerum rerum suarum esse nolit, qui primus occupaverit stitit dominus sit Jure Naturali. Instit. de Rerum divisione 5, qua ratione: & Lege 1. D. pro derelicto.

ART. XXXIII.

If a ship, or any other vessel, hath cast overboard several goods or merchandizes, which are in chests well locked and made fast; or books well clasped and shut close, that they may not be damnified by salt water; in such cases it is to be presumed, that they who did east such goods overboard, do still retain an intention, hope, and desire of recovering the same: for which reason, such as shall happen to find such things, are obliged to make restitution thereof to him who shall make a due enquiry after them; or put them to pious uses, according to his conscience and the advice of some prudent neighbour.

Observation.

Well clasped; this is conformable to the gloss on the Rhodian law. D. Lege Rhodia.

ART. XXXIV.

If any man happens to find any thing in the sea, or in the sand on the shore, in floods or in rivers, if it be precious stones, fishes, or any treasure of the sea, which never belonged to any man in point of property, it belongs to the first finder.

ART. XXXV.

If any searches the sea-coasts to fish, or find gold or silver, and he finds it, he ought to restore it all without any diminution.



ART. XXXVI.

If any going along the sea-shore to fish, or otherwise, happens to find gold or silver, he shall be bound to make restitution thereof, deducting for his own pains; or if he be poor he may keep it to himself; that is, if he knows not to whom to restore it; yet he shall give notice of the place where he found it, to the neighbourhood and parts next adjacent, and advise with his superiors, who ought to weigh and take into consideration the poverty of the finder, and then to give him such advice as is consonant to good conscience.

Observations on the Three Preceding Articles.

There are three sorts of goods which the sea naturally drives to land: as entire wrecks; for which the cruel *droit de bris* was in old times established by pernicious and barbarous custom: but humanity, licenses and passports have abolished it in ours. The second is, what is flung overboard for the preservation of men's lives, the ship and cargo. Neither of these, by law, nor the custom of the sea, change their proprietors, but may be claimed and recovered by them, within the lawful time appointed by ordinances and customs to claim them, even while the goods are in being and unsold, as appears by what has been said in and upon the 30th article. The third sort comprehends the two first, which are not owned and demanded by the proprietor, and besides that, includes all the treasures of the sea which come out of its bowels, and it naturally drives ashore; as aromatic amber on the coast of Guienne, amber succinum in the German ocean, red, black, and white coral on the coast of Barbary, precious stones, fish-shells, and other riches which the sea produces, and which in the thirty-fourth article of these laws are called "herpes marines," in English, "treasures of the sea"; for it cannot be otherwise so fully expressed. The word "herpes" was taken from an old Gaulish term "harpir," which signifies to take, and its contrary "vo-erpir," is to leave: perhaps, says my author, taken from the Greek word "ἄρπάζω" *aurum mihi intus harpagatum est*, Plautus in *Aulularia*; that is, the property of such things is in the finder, or the person who first takes them from off the ground. *Vocari autem elecirum harpaga, eo quod attritu digitorum accepta anima folia paleasque vestium fimbrias rapiat*. Isidorus, orig. lib. xvi, cap. 8. Nor is he who first lays his hand on them, obliged to give those that are there with him a share of what he has found, unless he pleases to do it out of courtesy, *I. si is qui ultimo. D. acquirendo rerum Dominio. Robustus de Privilegiis Scholasticorum, num. 61*, notwithstanding the constitution of the Emperor Leo, which is contrary to it. This is the law of nature, but princes and lords of the coast have usurped this privilege, and laid claim to all the treasures of the sea, that it throws on their royalties. The lords of the coasts, that is, of the manors or lands on the coasts of France, were notorious usurpers in this, till the reign of Louis XIII., when Cardinal Richelieu, by an order of the council bearing date the 13th of December, 1629, took away the pretended rights of several lords, or very much abridged them; but he did not restore the law of nature in this case; he only enlarged his own and his successor's privileges and authority, he being

great master and superintendant general of the navigation and commerce of France. This order of council caused great disorders, and the Count de Olonne was particularly so enraged at it that his officers by main force drove away those of the admiralty, who came upon his royalty. But the French kings were now masters of their subjects' lives and fortunes, and it would have been in vain for many such counts to have disputed the king's edict with these words in it, "Cartel est notre plaisir" the standing reason of the French laws at this time.

#### ART. XXXVII.

Touching great fishes that are taken or found dead on the sea shore, regard must be had to the custom of that country where such great fishes are taken or found. For by the custom, the lord of that country ought to have his share, and with good reason, since the subject owes obedience and tribute to his sovereign.

#### Observation.

This law declares, that by the ancient customs of countries, as well sovereigns as all particular lords of royalties to whom duties and tribute were due, had both heretofore certain rights to the espaves de mer, strays of the sea. The Coustumier de Normandie under the article of Varech, specifies what belongs to the one, and what belongs to the other, and particularly that whales and other oil fish, belong to the particular lord of the royalty where they were found, that is, off whose land they were taken: on the shore—in the original it is—a la rive de la mer; and how far that is to be understood to belong to the lord of that royalty, may be found in the above mentioned coustumier: where the Varech understands as far as a man on horseback can reach with his lance; for if the fish is found farther off the shore, the lord has no right to it, though it be brought or driven a-shore afterwards.

#### ART. XXXVIII.

The lord ought to have his share of oil fish, and of no other, according to the laudable custom of the country where they are found; and he that finds them is no farther obliged than to save them, by bringing them without the reach of the sea, and presently to make it known to the said lord of the place, that he may come and demand what is his right.

#### Observation.

The Coustumier de Normandie mentions two sorts of fish, the royal fish, which are the dolphin, the sturgeon, the salmon, the turbot, the sea-dragon, the sea-barbel, and in general all fish fit for a king's table: and oil fish, as whales, porpoises, sea-calves, and the like, of which oil may be made: all other fish are the property of those that take them in the sea, near the shore or afar off. The duke of Espernon, which is the capital of a little territory called de Buch, had a right to the eighth penny of all the fish sold in the market at Bordeaux, that were taken within his precinct of de Buch, the fishermen having been heretofore vassals to the Lords de Buch. And further, whatever part of the province of

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Guienne the duke was in, those fishermen were on all fast days bound to supply his table with fish for himself and his family; but then the duke must pay a reasonable price for them, and allow them something for their trouble: this right is called “bian,” and is still, or was thirty years ago, in being.

ART. XXXIX.

If the lord of the place pleases, and if it be the custom of the country where the fish is found, he may cause the same to be brought by him that found it, to the public and open market place, but no where else; and there

the said fish shall be appraised by the said lord, or his deputy according to custom. And the price being set, the other party that made not the price, shall have his choice, either to take or leave it at that price; and if either of them, whether per fas or nefas be an occasion of loss or damage to the other, though but to the value of a denier, he shall be obliged to make him restitution.

#### ART. XL.

If the costs and charges of carrying the said fish to the said market place would amount to a greater sum than the fish itself may be worth, then the said lord shall be bound to take his share at the place where such fish was found.

#### ART. XLI.

The said lord ought likewise to pay his part of the aforesaid costs and charges, because he ought not by another's damage to enrich himself.

#### ART. XLII.

If by some chance or misfortune the said fish happens to be stolen away, or otherwise lost from the place where it was found, after or before the said lord has visited it; in this case he that first found it shall not any ways be obliged to make it good. *Casus fortuiti in quibus est agressura latronum a nemine praestantur 1. quae fortuitis. C. pignoratitia actione.*

#### ART. XLIII.

In all other things found by the sea side, which have formerly been in the possession of some one or other, as wines, oil, and other merchandize," although they have been east overboard, and left by the merchants, and so ought to appertain to him that first finds the same; yet herein also the custom of the country is to be observed as well as in the case of fish. But if there be a presumption that these were the goods of some ship that perished, then neither the said lord, nor finder thereof, shall take any, to convert any part of it to their own use; but as has been said, distribute the money it produces amongst the poor and needy.

#### ART. XLIV.

If any ship or other vessel at sea, happens to find an oil fish, it shall be wholly theirs that found it, in case no due pursuit be made after it; and no lord of any place ought to demand any part thereof, though they bring it to his ground.

#### Observations on the Preceding Articles.

The French author pretends, that by the forty-fourth article of these laws, which he says answers to the thirty-seventh, the kings of England, who were also dukes of Guienne, acknowledged that the sea is no man's particular property; but that, as well as the air, it is common to all, *Instit. de Rerum Divisione, § 1, 1. injuriarum, § si quis me prohibeat. D Injuriis*; which, says he, contradicts what the learned Selden writes in his treatise *De Dominio Maris*, composed by him for the kings of England, whom he supposed to be kings

of the sea, exclusive of all other kings and sovereigns; and unless the opposers of Selden can find out some better arguments than hitherto they have alleged, the kings of England will always believe the dominion of the sea is annexed to their crown. Under this article the author makes a long digression on the whale fishery on the coasts of Guienne, which might in former times be very famous, but now is very inconsiderable. After a description of whales, not at all pertinent in our sea laws, he tells us, when those animals used to come on these coasts; and because there is something historical in the relation, we shall give the reader a short abstract of it. The whales used to pass by the coasts of Guienne, near the ruins of the old castle of Ferragers, about a league from Bayonne, from the autumnal equinox till the winter was almost over. The fishermen had then some of their band always out upon the watch night and day, in huts built on purpose by the sea-side, having their boats and fishing tackle ready. When these centinels discovered a whale, which they knew by the noise he makes in breathing, and the exhalation that rises from it like smoke, they gave notice, by a token they had for that purpose, to their fellows, who immediately ran to them, and leaping into their boats put off to sea, rowing up to the animal, to whom they approached very near, and attacked him in the head, that the wounds they gave him might be the more mortal; besides they were afraid of being struck by it, which was commonly mortal to them: when they had killed him, they towed him ashore and extracted the oil. The fishermen were for the most part Biscainers, who were very bold and dexterous in this dangerous fishery: but what my author says on this subject will surprise the reader. The great gains the inhabitants of Cape Bezton near Bayonne, and the Biscainers of Guienne, found in the whale fishery, and the ease with which they did it, tempted them to run any hazards to come at whales. They ventured into the ocean, and set out ships to seek after the common abode of these monsters: insomuch, that following their route, they discovered the great and little banks of cod-fish, the island of Newfoundland, and Canada or New France, where the sea abounds in whales, one hundred years before Christopher Columbus's navigation; and if the Spaniards have been so unjust, as to rob the French of the glory of having first discovered the great Atlantic isle called the West Indies, they should confess with Cornelius Vuytflor and Anthony Magin, Flemish cosmographers, F. Antonio St. Boman, Monge de St. Benlco, del Pxistoria General de la India, lib. i, cap. ii, p. 8, that the pilot who carried the first news to Christopher Columbus, and gave him any knowledge of the New World, was one of the French Newfoundland Biscainers. But all this is so contrary to every other history, that there is no credit to be given to it. Indeed it would have been very extraordinary, if there should have been any honour pretended to by any nation, and the French had not put in a claim to it. In the year 1627, some Biscainers, assisted by the merchants of Bordeaux, fitted out a ship for the whale fishery towards the frozen sea of Greenland, to the north of Ireland and Scotland, and at Spitzberg: where they at last found the common station of the whales

during a six months stay which they made there. But now we come to what he is pleased to say of the English.

The English, who had not the address or industry for this fishery being advised of it, grew jealous. They hastened thither and did all they could to molest them in their work, and hinder their landing, which they did every year. At last they positively forbade them to land in Greenland, to melt their whales' fat into oil. The Biscainers complained to Lewis XIII, and Cardinal Bichelieu; but there were

so many things of more importance then negotiating between the crowns of France and England, that they could not obtain any article in their favour, nor truce for their fishery. Afterwards they fished in the open sea, caught whales where they could, and with much trouble brought the fat home, where they melted it into oil. The company of north Holland, tempted some of these Biscainers to shew their fishermen the art of whale-fishing, and after they were become expert in it, they also forbad them to fish on the coast of Greenland, and then this fishery was lost to them. There is an air of fiction in this history:—By what authority could the English forbid the Biscainers to land in Greenland; does that country belong to the crown of England? But it is not a little the French will go out of their way to carry any point they drive at

ART. XLV.

If a vessel by stress of weather be constrained to cut her cables or ropes by the end, and so to quit and leave behind her both cables and anchors and put to sea at the mercy of the wind and weather; in this case the said cables and anchors ought not to be lost to the said vessel, if there were any buoy at them; and such as fish for them, shall be bound to restore them, if they know to whom they belong; but they ought to be paid for their pains, according to justice. And if they know not to whom to restore them, the lords of the place shall have their shares, as well as the salvors; but for preventing further inconveniences, every master of a ship shall cause to be engraven, or set upon the buoys thereof, his own name, or the name of his ship, or of the port or haven to which she belongs: and such as detain them from him shall be reputed thieves and robbers.

ART. XLVI.

If any ship, or other vessel, by any casualty or misfortune happens to be wrecked and perish, in that case, the pieces of the hulk of the vessel, as well as the lading thereof, ought to be reserved and kept in safety for them to whom it belonged before such disaster happened, notwithstanding any custom to the contrary. And all takers, partakers, or cousenters of, or to the said wreck, if they be bishops, prelates or clerks, they shall be deposed and deprived of their benefices respectively; and if they be laymen they shall incur the penalties aforesaid. *De his autem quos diripuisse probatum sit, prsesides ut de latronibus, gravem sententiam dicere convenit. 1. ne quid. 1. quo Naufrag. D. Incendio, ruina, & naufragio. 1. navigia, C. furtis.* The penalties aforesaid are in the 25th, 26th, and 29th articles.

ART. XLVII.

This is to be understood only when the said ship or vessel so wrecked, did not exercise the trade of pillaging, and when the mariners thereof were not pirates, sea-rovers, or enemies to our holy Catholic faith; but if they are found to be either the one or the other, every man may then deal with such as with rogues, and despoil them of their goods without any punishment for so doing.

Observations on the Three Foregoing Articles.

Every one has a Droit de Bris against pirates. Piratse communes generis humani hostes sunt, quos idcirco omnibus rationibus persequi incumbit, says the lord Verulam, de Bello Sacro, p. 346. For which reason, according to the civilians, Sunt ipso jure dissidiati, cum quibus publice helium habemus. Strachia in tertia parte de nautis; and again it is cruelty to have any mercy towards pirates, Solum pietatis genus est in hac re esse crudelem. There is no right of action amongst them, and they have none to bring against one who attacks them or robs them. Quia in omnium furum persona constitutum est, ne ejus rei nomine furti agere possint, cujus ipsi fures sunt, lege cum qui § quarto, lege qui re sibi § primo. lege quires. § si ego. De Furtis, &c. They have no action among themselves. Communi dividundo lege, communi § inter Prse-diones. D. communi dividundo. On the contrary, for one pirate to take from another is very lawful, and will bear no action. Lege sed ipsi Nautse, &c.

The test of these laws in this copy, is,

Witness the seal of the isle of Oleron, established for all contracts in the said isle, the Tuesday after the feast of St Andrew, in the year one thousand two hundred and sixty-six.

This date of 1266, is too modern, and does not agree with the time when this piece was put forth, as the learned and curious Selden, libro secundo, capite 24. De Dominio Maris, very well observes: so that it is thought that this date of the time of the delivery of the copy, from whence the edition printed at Rouen was taken, and the test the seal established for contracts in the isle of Oleron, denotes, that it was a copy taken out by a notary from the original.



## YesWeScan: The FEDERAL CASES

THE  
LAWS OF WISBUY.

[Reprinted from 1 Pet. Adm. Append, Ixvii.)

Wisbuy was the ancient capital of Gothland, an island in the Baltic sea. It formerly belonged to Sweden, but was afterwards annexed to Denmark, to whose crown it still continues an appendage. In Gothland there are several fine ports, the access to which is easy and safe. It is rich in cattle, of which it affords immense numbers, and abounds in venison, fish, forests of fine timber for building ships, naval stores, and excellent marble. In the north-west part of the island Wisbuy was situated, a fair and noble sea-port, built by foreigners, and whose first settlement in the country was opposed by the Gothlanders, but who successfully resisted them, and, in the year one thousand two hundred and eighty-eight, obtained an important victory over them; after which the citizens, to defend themselves against their enemies, obtained a permission from Magnus Jring of Sweden, to wall their city, and erect bastions and other fortifications. They flourished more and more, and grew great by their trade and navigation, to which they entirely gave themselves up; insomuch, that this town was a long time the most celebrated market of Europe; there being no city so full of merchants, and so famous for its commerce. Hither came Swedes, Russians, Danes, Prussians, Livonians, Germans, Pinlanders, Vandals, Flemings, Saxons, English, Scots and French to trade. Each nation had their quarter, and particular streets for their shops or warehouses. All strangers were safe and welcome there, and enjoyed the same privileges as the townsmen themselves. The magistrates of this city had the jurisdiction, or rather the arbitrement of all causes or suits relating to sea affairs. Their ordinances were submitted to in all such cases, and passed for just on all the coasts of Europe from Muscovy to the Mediterranean. In this account we are supported by Olaus Magnus, lib. x, cap. 16, and Baron Herbestain in *Rerum Muscovitarum Commentario*, p. 118. In the course of time, this town was entirely destroyed, except the citadel, which stands to this day. The Gothic historians do not tell us when, nor how its destruction came upon it. only that it was through civil dissensions which arose from trifles, but occasioned great factions; which set them so against one another, that it ended in the entire ruin of them all, city and citizens. The ruins of it are now to be seen, and under them are often found tables of marble, porphyry and jasper; evidences of the ancient splendor and magnificence of the citizens. The houses were covered with copper, the windows gilt with gold, and all that is said or that is discovered of it, shews the inestimable riches of the former inhabitants. The citizens who survived the ruin of the city, retired to the country of the Vandals and eastern Saxons, who were enriched with their wealth. Albert king of Sweden, rebuilt the city and granted great privileges to all that should come and inhabit it; but it never could recover its trade and former magnificence.

It was in this city of Wisbuy that the sea laws and ordinances which the Swedes brought into credit, were composed; they were received as righteous and just, and are kept in the Teutonic language till now. The Germans, Swedes, Danes, Flemings, and all the people of the north observe them; but none have been so curious as to preserve the date and the remembrance of the time when they were composed and published.

Northern writers have contended that the laws of Wisbuy are more ancient than the Roll d'Oleron, and have even asserted the Consolato del Mare to have been composed subsequent to them. These claims are opposed with some irritation by Cleirac, who denies their having been promulgated prior to the year 1266. In this opinion he is supported by many historical facts. But at whatever period they may have been composed, these laws have been for ages, and still remain, in great authority in northern Europe. *Lex Rhodia navalis, pro jure gentium in illi mari Mediterraneo vigeat, sicut apud Galliam leges Oleronis, apud omnis transcribannos, leges Wisbuensis.* Grotius de Jur. Bel. lib. ii, c. 3.

#### ARTICLE I.

Whatever mariner, whether pilot, mate, or sailor, binds or hires himself to a master, if he afterwards leaves him, he shall refund what wages he has received; and besides that, pay half as much as the master had promised him for the" whole voyage. And if a mariner has hired himself to two several masters, the first that hired him may claim him, and force him to serve him. Nevertheless he shall not be obliged to pay him any wages at all for the whole voyage, unless he does it of his own good will.

#### ART. II.

Every pilot, mate or mariner that does not understand his business, shall be obliged to repay to the master whatever wages he had advanced him, and be besides bound to pay half as much more as he had promised him.

#### ART. III.

A master may turn off a mariner without any lawful cause given, before he sets sail, paying him half what he had promised him for the voyage. After he has set sail, and

is gone out of his port, that master who turns off a mariner without lawful cause given, is obliged to pay him all his wages as much as if he had performed the voyage.<sup>1</sup>

ART. IV.

<sup>2</sup>No mariner shall lie or stay a night ashore without the master's leave, on pain of forfeiting two deniers, nor shall he unmoor the ship's boat in the night, under the same penalty.<sup>3</sup>

ART. V.

The mariners shall have three deniers a last for loading, and three for unloading, which is to be reckoned only as their wages for guindage or hoisting.<sup>4</sup>

ART. VI.

It is not lawful to arrest or imprison the master, pilot or mariners of a ship in an action of debt, when they are ready to sail; but the creditor may seize and sell any thing he finds in the ship that belongs to his debtor, I. i, de Naviculariis, lib. iv, cod.<sup>5</sup>

ART. VII.

A ship being freighted for all the summer, the season shall end on the feast of St. Martin, or the eleventh of November.

ART. VIII.

Whoever shall make use of another man's lighter, without his leave, shall pay the owner four sols a day, unless it was in a case of necessity, as of fire or the like.

ART. IX.

If any one has occasion to have a debt witnessed, he need not carry strangers aboard; but may make use of the people in the ship. The same he may do in all acts where witnesses are necessary, lib. x. cod.

ART. X.

It is not lawful to sell or mortgage a vessel let out to freight; but it is lawful to freight it or underlet it to others for the same time, and the same voyage.<sup>6</sup>

ART. XI.

If a ship that was freighted for a voyage is sent upon another longer than that, or upon several voyages; if there is no protestation or dissent entered against it, the freighter shall pay but half the damages that may happen to the ship in such longer voyage or voyages.

ART. XII.

If a mast, sail or any other tackling is unfortunately lost when the ship is under sail, or otherwise, the loss shall not be brought into an average. But if the master is obliged to cut his mast by the board, or spoil any of his tackling for the preservation of the ship, the bottom and the cargo shall make good the damage by an average.<sup>7</sup>

ART. XIII.

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The master shall not sell the ship, nor any part of her tackling, without the consent of the owners; but if he wants victuals he may pawn his cables and cordage: always observing to have the advice of the mariners.<sup>8</sup>

### ART. XIV.

The master being in port, ought not to depart and set sail without the advice and consent of the major part of the mariners; if he does, and there happens any loss, he is bound to make satisfactions.<sup>9</sup>

### ART. XV.

The mariners are obliged to the utmost of their power to save and preserve the merchandize, and for doing it, ought to be paid their wages, but not otherwise. It is not lawful for the master to sell the ship's cordage, without the consent of the owners or factors: but he is bound to preserve all, as much as in him lies, on pain of making satisfaction.<sup>10</sup>

### ART. XVI.

The mariners are obliged to save as much as they can, and the merchants may take away their goods, paying the freight or satisfying the master; otherwise the said master may fit out his ship if he can do it in a little time, in order to accomplish his voyage; if he cannot do it he may relade the merchandize upon other vessels, bound for the port to which he was to carry them, paying freight for them.

### ART. XVII.

The mariners shall not go out of the ship without leave of the master, on pain of paying the damage that may happen in their absence, unless it is when the ship lies ashore moored with four cables. In such

case they may go out of her for a little time, taking care not to transgress in it.”<sup>11</sup>

#### ART. XVIII.

A mariner being ashore in the master’s or the ship’s service, if he should happen to be wounded, he shall be maintained and cured at the charge of the ship: but if he goes ashore on his own head to be merry, and divert himself, or otherwise, and happens to be wounded, the master may turn him off; and the mariner shall be obliged to refund what he has received, and besides to pay what the master shall be forced to pay over and above to another whom he shall hire in his place.<sup>12</sup>”

#### ART. XIX.

If a seaman falls ill of any disease, and it is convenient to put him ashore, he shall be fed as he was aboard, and have somebody to look after him there; and when he is recovered, be paid his wages; and if he dies, his wages shall be paid to his widow or heirs.<sup>13</sup>

#### ART. XX.

If by stress of weather it is thought necessary to throw any goods overboard to lighten the ship; and the supercargoes or merchants aboard, will not consent to it, the merchandize shall nevertheless be thrown overboard, if the rest of the people aboard think it safest to do “so. In such case as soon as the ship puts into port, a third part of the mariners must go ashore, and purge themselves by oath, that they were forced to do it for the preservation of their own lives, the ship, and the rest of the cargo. The merchandize so thrown overboard, shall be brought into a gross average, and be rated at the same price the other merchandize of the same sort, that was saved, was sold for.”<sup>14</sup>

#### ART. XXI.

Before the master throws any goods overboard, he is bound, in the absence of the merchant, to ask the pilot and mariners advice, and the loss shall be made good by contribution: the ship and cargo being accountable towards it.<sup>15</sup>

#### ART. XXII.

The master and mariners are obliged to shew the merchant the cordage that is used for hoisting his goods in and out of the ship; if he does not do it, and there happens any accident, they shall stand to the loss; but if the merchant has seen and approved of it, the damage he sustains shall be borne by himself.<sup>16</sup>

#### ART. XXIII.

If a ship is ill trimed, and it happens that the wine she has aboard is lost through the master’s ignorance or negligence in governing her, the said master is bound to pay for it; but if the mariners clear him upon oath, the leakage or loss shall be borne by the merchant.<sup>17</sup>

#### ART. XXIV.

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No man shall fight, or give another the lie aboard. He who offends in this kind shall pay four deniers; and if the mariner gives the master the lie, he shall pay eight deniers: but he who strikes him shall pay 100 sols, or lose his hand.<sup>18</sup> If the master-gives the lie he shall pay eight deniers; if he- strikes he ought to receive blow for blow.<sup>19</sup>

### ART. XXV.

The master may turn off a mariner for a lawful cause; but if the said mariner compensates for his fault, and the master nevertheless refuses to admit him again: the mariner may follow the ship to her destined port, and he shall be paid his wages, as much as if he had made the voyage in the same ship. If the master hires a less able seaman in his place, and there happens any damage by it, the master is to make good the loss.<sup>20</sup>

### ART. XXVI.

If a ship riding at anchor in a harbour, is struck by another ship which runs against her, driven by the wind or current, and the ship so struck receives damage, either in her hulk or cargo, the two ships shall jointly stand to the loss; but if the ship that struck against the other might have avoided it, if it was done by the master on purpose, or by his fault, he alone shall make satisfaction. The reason is, that some masters who have old crazy ships, may willingly lie in other ships' way, that they may be damnified or sunk, and so have more than they were worth for them. On which account this law provides, that the damage shall be divided, and paid equally by the two ships, to oblige both to take care, and keep clear of such accidents as much as they can.<sup>21</sup>

ART. XXVII.

A ship being at anchor in a harbour where there is so little water that she touches; another ship comes and anchors near her; if the ship's company of the former vessel require those of the latter to take up their anchor, because it is too near them, and they do not do it, the former may take it up themselves; and if the latter hinders them, they shall make satisfaction for all the damage that may happen by that anchor.<sup>21</sup>

ART. XXVIII.

No master of a ship shall lie at anchor in a haven without fastening a buoy to his anchor, to give notice to others where it is. If he omits to do so, and any damage is sustained by it, he is obliged to make it good.

ART. XXIX.

In all voyages where wine is the trade, the master is obliged to find the seamen with it, and then he may give them but one meal a day; but where it is not to be had, and the mariners drink water, he shall give them two meals a day.<sup>22</sup>

ART. XXX.

When a ship is let out to freight, the master ought to assign and shew the seamen where they are to have the stowage that belongs to them; and they must declare whether they will load it themselves, or will let the master freight it with the rest of the ship, and be paid for their proportion.<sup>23</sup>

ART. XXXI.

A ship being arrived at her destined port, those seamen who would be paid their wages there, if they have no chest nor bedding, or other movables aboard, equivalent to their wages, they must give the master security that they will serve out the rest of the voyage, and see it completed, or he may refuse to pay them before.<sup>24</sup>

ART. XXXII.

Those seamen who bargained for a certain proportion of the ship's freight, instead of wages in money, in case freight is not to be had for her when she arrives at the port for which she was bound, and she must go further in quest of it, they must go with her: but those seamen who agreed to be paid in money, shall have their wages there.<sup>25</sup>

ART. XXXIII.

When a ship is safe at anchor, the seamen may go ashore one after another, or two together, and carry sufficient meat and bread with them for one meal, but no drink. Nor must they stay any long time ashore; for if through their absence any damage happens to the ship or goods, they are obliged to make satisfaction. And if any one of the crew is wounded, or comes by any other ill accident in doing chant's business, the merchant is bound to cure him, and indemnify the master, pilot and mariners.<sup>26</sup>

ART. XXXIV.



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A ship being let out to hire to a merchant to freight her, and he agrees to load her in a certain time; if he fails and exceeds that time, fifteen days or more, and by this means the master loses his opportunity to freight his ship; the said merchant shall make him satisfaction for his delays, and pay his damages and interest, a quarter of which belongs to the mariners, and three quarters-to the master.<sup>27</sup>

### ART. XXXV.

If the master being upon his voyage wants money, he must send home for it; but ought not to lose a fair opportunity of proceeding; if he does, he shall satisfy the merchant for all the damage he may sustain by his delay; but in case of great necessity he may sell part of the merchandize, and when he arrives at his destined port, he shall pay the merchant for them at the same price the rest was sold at, and the merchant shall pay freight as well for the merchandize the master sold, as for those he delivered him.<sup>28</sup>

### ART. XXXVI.

When the master arrives in a port, he should be careful to place his ship well, to moor her well; for if by his neglect in this the merchandize aboard comes by any damage, he is obliged to make it good.

### ART. XXXVII.

If a ship has been in a storm, and the merchant, master or crew think she ought to be refitted, to enable her to continue her voyage, they may do it, and then proceed. However, the master shall be paid his freight for the goods saved, which are for the merchant's profit only. If the merchant has no money, and the master will not give him credit, he may take his merchandize in payment at the market price.<sup>29</sup>

### ART. XXXVIII.

The master shall not throw any goods overboard, without first consulting the merchant;

and if the merchant will not consent to it, yet if two or three of the most experienced mariners think it necessary, they may be thrown overboard, but the mariners must swear they thought it was expedient so to do. If there is no merchant or factor aboard, the master and major part of the mariners may resolve upon what is fit to be done.<sup>30</sup>

ART. XXXIX.

The merchandize thrown overboard shall be valued in the average, at the price the rest was sold for, freight only deducted.<sup>31</sup>

ART. XL.

The master in the average shall pay his proportion for the goods thrown overboard, either by calculating what the ship is worth, or what the freight amounts to, at the choice of the merchant; and the merchant shall pay his. according to the value of the remaining merchandize. It shall be left to the merchant to leave or take the ship at the price the master rated her at.

ART. XLI.

<sup>32</sup>If any one has plate or merchandize of great price in his chest, he is bound to declare it before hand, and so doing he shall lie paid for his merchandize according to its worth, and the plate after the rate of two deniers for one.

ART. XLII.

If any one has money in his chest, let him take it out and carry it about him, and he shall pay nothing.

ART. XLIII.

If a chest is thrown overboard, and the proprietor does not declare what is in it, it shall not be reckoned in the average, but for the wood and the lock, if it is locked, according to their value.<sup>33</sup>

ART. XLIV.

If it is thought convenient in any river, or off any dangerous coast to take aboard a pilot of the country, and the merchant opposes it, yet if the master, the ship's pilot, and the major part of the seamen are of another opinion, he may be hired, and the pilot shall be paid by the ship and cargo, as averages are calculated for goods thrown overboard.<sup>34</sup>

ART. XLV

If a master is reduced to straits for want of money or victuals, and for that reason forced to sell part of his merchandize aboard, or borrow money at bottomry, he ought to pay within 15 days after his arrival, for the merchandize at a reasonable price, neither the highest nor the lowest; and if he does not, and the ship be sold, and another master put in her, the merchant to whom the merchandize belonged, or the creditor that lent the money on bottomry, shall at any time within a year and a day, have a good right to the ship, until satisfaction is made for the goods sold, or money borrowed.<sup>35</sup>

ART. XLVI.

A ship being laden, the master ought not to take in any more merchandize, without leave of the merchant; if he does, and there happens any occasion to throw goods overboard, he shall pay as much as he took in goods over and above the ship's loading. Wherefore he ought when he is lading, to declare how much goods he has, and ought to have aboard.

ART. XLVII.

The seamen are obliged to keep and watch the merchandize at the request of the merchants, master and pilot.

ART. XLVIII

If for the preservation of the commodity, the seamen turn up the corn aboard, they shall be allowed a denier a last for each time; and if they will not do it, they are liable for the damage that comes to it for want of it. They shall also be allowed a denier a last for unlading, and so for other merchandize.

ART. XLIX.

The mariners ought to represent to the master what condition their tackling for lading and unlading is in; that if the cordage is out of repair, or any other part of it, it may be mended. And if the master does not do it, he shall be accountable for whatever damage happens by that means; but if the mariners do not make their representation, the accidents that befall the merchandize shall be indemnified at their expense.<sup>36</sup>

ART. L.

If two ships strike against one another and receive damage, the loss shall be borne equally between them, unless the men on board one of them, did it on purpose; in which case that ship shall pay all the damage.<sup>37</sup>

ART. LI.

To prevent all inconveniences, all masters of ships are required to fasten buoys to their anchors, on pain of making satisfaction for all

the damage that may happen for want of them. <sup>38</sup>

ART. LII.

“When a ship arrives at her port of discharge, she ought to be unladen with all possible dispatch, and the master to be paid in eight or fifteen days at farthest, according to the circumstances of the voyage. <sup>39</sup>

ART. LIII.

If a ship freighted for one port, enters another, the master together with two or three of his chief mariners, ought to clear themselves upon oath, that it was by constraint and necessity that they went out of their way. After which he may proceed in his intended voyage, or ship the cargo aboard other ships, paying freight for the goods, which the merchant shall also pay him, and what else is due on account of the merchandize.

ART. LIV.

It is forbidden to any mariner to go out of the ship, and leave it, after the voyage is done and the ship discharged, unless her sails are all in, her furniture taken away, and she is sufficiently lightened of her ballast. <sup>40</sup>

ART. LV.

If a ship strikes, the master may take out part of his cargo, and relade it aboard other ships, and the charges of it shall come into a general average upon ship and goods. However, the master and two or three of his seamen shall purge themselves upon oath, that they were forced to do it to save the ship and cargo.

ART. LVI.

When a ship arrives at the mouth of any river or harbour, and the master finds she is too heavy laden to sail up, he may put part of the cargo aboard hoys, lighters, or barges, and an average shall be made for it, of which the master shall pay two thirds, and the merchant one third; but if after the ship is entirely discharged, the ship draws too much water, and cannot sail up, then the master shall pay all the charges.

ART. LVII.

The merchandize being put aboard lighters, in order to be landed, if the master has any jealousy of the merchant's ability or honesty to pay him, he may stop it at his ship's side, and refuse to let it go, till the merchant has paid him in full for his freight and charges.

ART. LVIII.

All lighters, open or close, shall be discharged in five days.

ART. LIX.

When a ship is at anchor before a harbour with which her pilot is not well acquainted, the master ought to hire one at the place to carry his ship into it, who shall be paid by ship and cargo.

ART. LX.

When a ship is in a harbour or river, and the master does not know the coast nor the-river, he ought to take a pilot of that country to carry her up the river or harbour, which pilot shall be maintained by the master, and. paid by the merchant.

ART. LXI.

If a seaman deserts his ship, and carries away what he has received of the master, and the master apprehends him, the fact being proved upon him by the depositions of two other seamen, he shall be condemned to be hanged, and executed.

ART. LXII.

If a master discover that a mariner is infected with any contagious distemper, he may put him ashore on the first land he makes, without being bound to pay him any wages,, provided the ease be proved by the attestation of two or three of the other mariners belonging to his ship.

ART. LXIII.

If a pilot or mariner buys a ship, or is made master of one, he shall be discharged from his own master, paying him back what he received of him; and it shall be the same if he-marries.

ART. LXIV.

If the master, merchant and owners have any difference, and the owners will not furnish their quota of the charge of the out-set; the master may nevertheless proceed in his voyage or voyages with the said ship, paying the seamen what he thinks reasonable.

ART. LXV.

If the master lays out any money in repairing or refitting his ship, or buys any tackling, or any thing else for her use, he shall be reimbursed, and every owner pay his part.

ART. LXVI.

If the merchant obliges the master to insure-the ship, the merchant shall be obliged to insure the master's life against the hazards of the sea.

ART. LXVII.

If two ships strike against one another, and one of them unfortunately perishes by the blow, the merchandize that is lost out of both of them, shall be valued and paid for pro rata by both owners, and the damage of the ships shall also be answered for by both according to their value.

ART. LXVIII.

In case of necessity the merchant may sell part of the merchandize to raise money for his ship's use; and the ship happening to be lost afterwards, the master shall however be obliged to pay the merchant for the said merchandize so sold, without pretending to deduct any thing for the freight.

ART. LXIX.

When the master is forced to sell any of the merchandize, he is obliged to pay the same price for them, as the same goods were sold for at the market for which they were designed, and the master shall be paid his freight for what goods are sold.

ART. LXX.

if a ship under sail does damage to another, the master and mariners of the ship doing the damage must swear they did not do it designedly, and if they refuse to swear, the damage shall be paid by the ship that did it.

## YesWeScan: The FEDERAL CASES

THE  
LAWS OF THE HANSE TOWNS.

[Reprinted from 1 Pet. Adm. Append, xciii.]

Before we give an abstract of the laws of the Hanse Towns, the confederacy which enacted them, and whose commercial policy they regulated, is entitled to some notice.

During the progress of successful commercial enterprize among the Italians, and towards the middle of the thirteenth century, the activity of the north was excited, and its attention was awakened to commerce. The Baltic was surrounded by nations immersed in extreme barbarism, whose piracies prevented the success of almost every maritime adventure, and compelled the cities of Lubeck and Hamburg, who had opened an intercourse with those people, to unite in a league of mutual defence. The immediate and extensive benefits resulting from this union, induced other towns to accede to it, and in a short time eighty-one cities of considerable importance, placed in those fertile and extensive countries which occupy the space between the lower part of the Baltic and the Scheld, became members of the Hanseatic league. It now obtained an influence in the affairs of Europe; and while its allies were enriched by an intercourse with its members, its friendship was courted, and its hostility dreaded by the most powerful monarchs. Among the means adopted by this association to insure prosperity to their trade, and protect them from controversies with each other, was the formation of a code for the regulation of their maritime enterprizes, and the circumstances incident to them. These laws are evidently founded on those of the neighbouring city of Wisbuy, and the justly celebrated Boll d'Oleron. They appear to have been first enacted and promulgated in the year 1597, at Lubeck, which is styled the "Mother of the Hanse Towns." They were formed by a general assembly, called together for the purpose, and first appeared in the German language. Afterwards, in the year 1614, they were revised by another delegation from each of the towns, and many new ordinances were added.

For the convenience of their commercial operations, different towns were selected by the confederacy where they established warehouses and factories, and at which their intercourse with other countries was chiefly conducted. Among the principal of these was Bruges and Antwerp, in the latter of which was erected a splendid hall, at that period the boast of the modern world. There, were brought by the Italians, the rich productions of India, with the ingenious manufactures of their own country, to be exchanged for the bulky and useful products of the north. The articles obtained by the Hanseatic merchants in this intercourse, were transported to the Baltic, and from thence along the larger rivers into the interior of Germany.

An intercourse so profitable to those who were immediately engaged in it, produced other effects than an augmentation of the wealth of the Hanseatic confederacy. The arts of southern Europe began to be known; and a desire to imitate them, and to possess their



productions, was the result of this knowledge. This intercourse created new wants as it increased the means of their gratification; and by the demands it excited among the inhabitants of the Netherlands and Germany, for commodities of every kind, industry was promoted; and at a very early period the manufactures of flax and wool had made considerable progress.

As Bruges became the centre of communication between the Hanseatic and the Lombard merchants, the Flemings traded with both in that city, to such extent and advantage as spread among them a general habit of industry, which long rendered Flanders and the adjacent provinces the most opulent the most populous, and best cultivated counties in Europe.<sup>1</sup>

The pleasure which is derived from tracing the progress of such associations to prosperity, and noting their influence and connection with the welfare of other states, has induced us to enter more minutely into the history of the Hanseatic body, than was originally proposed.

If their example stimulated other nations to industry and trade, their laws must necessarily have obtained a corresponding estimation. Those institutions which protected the rights and regulated the contracts of these industrious adventurers, could not fail to obtain a due portion of praise and value. Accordingly we find them in extensive application among the northern powers of Europe, and governing them in their commercial transactions. By the most distinguished men of the fifteenth and sixteenth centuries, whose avocations induced their attention to them, they are spoken of with great respect, and esteemed as the production of great wisdom and extensive experience.

#### ARTICLE I.

No master shall undertake to build a ship, unless he is assured that his owners and undertakers are agreed upon what model it shall be built, and on every thing relating to the building of it; which undertakers and owners shall be burghers and inhabitants of one of the Hanse Towns, and no others. However, if the master will go through with the building at his own expense, he may do it; otherwise he must always have the consent of those burghers that are concerned

with him, on pain of forfeiting half a dollar a ton.<sup>2</sup>

#### ART. II.

No master shall begin to build a ship, after he and his joint owners or partners have resolved upon it, until they have agreed among themselves of what size, height and depth she shall be, how broad and how long, and this agreement shall be taken in writing on pain of forfeiting 12 sols a ton.<sup>3</sup>

#### ART. III.

The master in like manner shall not repair the ship, sails or cordage without the owner's consent, on pain of being at all the charge of it himself, unless in case of necessity, when he is in a strange country.

#### ART. IV.

The master may not buy any thing whatsoever for his ship, unless it is in the presence, and with the consent of one or two of the partners; if he does he shall forfeit 50 sols: nor shall the master, or any of the owners buy any thing for the ship's use, upon the credit of the other owners who would pay ready money for their part of the disbursement.

#### ART. V.

An inventory shall be taken of every thing the ship wants, that it may be bought by the master and owners jointly.

#### ART. VI.

The master ought to buy every thing at the cheapest rate without fraud, on pain of corporal punishment; and he shall enter in his account the name of the person of whom he bought the goods, and where they live.

#### ART. VII.

If a master or mariner keep back any of the merchandize he took in on freight, they shall be apprehended and punished as robbers, unless it was in case of necessity.

#### ART. VIII.

Nor may they give above the market price for any provisions, and what they shall buy shall be carried to the ship's store-house, and be kept there till she is ready to sail.

#### ART. IX.

All masters are forbidden to sell any of the ship's provisions, on pain of being punished as thieves, except it is at sea, when they meet with other ships in distress and danger of perishing for want of them: for which they shall however be accountable to the owners.

#### ART. X.

The master when the ship is returned, is obliged to deliver up to the owners, the remains of his victuals and ammunition.

#### ART. XI.

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The master is obliged to set sail two or three days after his ship is loaden, if the wind is fair, on pain of forfeiting 200 livres; and in case any one of the owners has not paid his quota of the charge of the ship's outset by that time, he shall forfeit as much; and the master may besides, borrow money on bottomry, for the deficient owner's quota. The merchants are bound to load the ship by a prefixed time, on pain of paying the whole freight, notwithstanding the ship proceeds in her voyage light, and in her ballast only.

### ART. XII.

When the master gives in his account, he shall summon all his owners together, on pain of 100 livres forfeit.

### ART. XIII.

The master shall not take any merchandize aboard on his head, or by the consent of one of his owners, without the approbation of them all: if he does, the penalty is confiscation, or other punishment.

### ART. XIV.

The owners having lawful cause, may turn off a master, paying him for what share he has in the ship, at the price it cost him.

### ART. XV.

All owners are forbidden to entertain any master unless he produces a certificate of his honesty and ability, and that he quitted the service of the merchants he served last, with their consent: if they do, they shall pay 25 crowns penalty.

### ART. XVI.

Before the master hires any mariner or pilot, he ought to acquaint the owners with what wages he is to give them, and have their allowance of it, under penalty of 25 crowns.

### ART. XVII

If several ships are in company on the same voyage, they are obliged to stay for one another

or he liable to all the damages that may happen to the others by an enemy or pirates.<sup>4</sup>

ART. XVIII.

No master shall hire a mariner, before he has seen his pass or certificate of his faithful behaviour in the service of his last master, on pain of forfeiting 100 sols, unless he is necessitated to it in a strange country.

ART. XIX.

Masters are obliged to give mariners certificates of their faithful service; and if any one refuses, or delays, he shall forfeit 100 sols.

ART. XX.

A ship being forced to stay or winter in a strange country, the mariners are not to go out of her without the master's permission, on pain of losing half their wages.<sup>5</sup>

ART. XXI.

If the master maintains the mariners all the winter, they cannot oblige him to give them more wages; but if they endeavour to do it, they shall forfeit half of what they were to have had, and be punished further, according to the circumstances of their offence.

ART. XXII.

No seaman may go ashore without the consent of the master, pilot, mate or clerk of the ship, under penalty of 25 sols for each time.

ART. XXIII.

The seamen who are ashore with the master, are obliged to look after the boat, and return on board as soon as they are commanded: and he who stays or lies ashore, shall pay a forfeit, or suffer imprisonment.

ART. XXIV.

If the master changes his voyage, and steers another course than was intended, he ought to have the consent of his mariners, or pay them what the major party of them shall adjudge to be due to them for his changing of the voyage: and if then any one of them will not obey him, he shall be punished as a mutineer.

ART. XXV.

If any mariner sleep on a watch, he shall pay four sols forfeit: and whoever finds him asleep, and does not discover it, two sols.

ART. XXVI.

All seamen are forbidden to moor any skiffs or boats to a ship's side, on pain of imprisonment.

ART. XXVII.

He who shall be found incapable of discharging his duty as a pilot or mariner, for which he has received wages, shall forfeit all that was promised him, and be besides punished according to his demerit.

ART. XXVIII.

Masters shall pay their seamen at three payments, one third when the ship sets sail, outward bound; one third when she is unladen, and the other when she is returned home.

ART. XXIX.

A master may at any time turn away a mariner that rebels against, or is unfaithful to him.<sup>6</sup>

ART. XXX.

If one mariner kills another, the master is bound to seize him, and keep him in safe custody till he arrives at his port, and then to deliver him up to justice to be punished.

ART. XXXI.

The seamen may not feast and carouse in the ship without the master's leave, on pain of losing half their wages.

ART. XXXII.

No seaman shall let his wife lie aboard under penalty of 50 sols.

ART. XXXIII.

No seaman ought to carry powder and shot without the master's consent, on pain of paying double the value of it.

ART. XXXIV.

The master is bound when he returns home, to give an account before the magistrate, of what forfeitures he received, and for what, under penalty of 25 crowns.

ART. XXXV.

The seamen are obliged to defend the ship against rovers, on pain of losing their wages; and if they are wounded, they shall be healed and cured at the general charge of the concerned in a common average. If any one of them is maimed and disabled, he shall be maintained as long as he lives by a like average.

ART. XXXVI.

If the mariners, or any of the company refuse to assist on the like occasion, and the ship be taken or lost, they shall be condemned to be whipped as cowards and rascals.

ART. XXXVII.

If the mariners resolve to defend the ship, and the master is afraid and against it, he shall be turned out of his post with infamy, and declared incapable of ever commanding a ship afterwards.

ART. XXXVIII

The ship's ballast shall be carried to the place designed for it, and those that are refractory

fractory, and will not help in it, shall be punished by the magistrates of the place.

ART. XXXIX.

If any seaman is wounded in the ship's service, he shall be cured at the charge of the ship, but not if he is wounded otherwise.<sup>7</sup>

ART. XL.

If any one of the seamen goes ashore without leave, and the ship happens to receive any damage in the time, or to be lost for want of hands, he shall be kept in prison upon bread and water for one year; and if any seaman dies or perishes with the ship for want of the assistance of the absent seaman, the latter shall be punished with corporal punishment.<sup>8</sup>

ART. XLI.

If a mariner behaves himself ill the master may turn him off; but if he discharge him for no reason before the voyage begins, he shall pay him a third part of his wages, but shall not charge it in the ship's account.

ART. XLII.

If the master discharges a seaman during the voyage, for no lawful cause given, he is bound to pay him his whole wages, and defray the charge of his return; but if the mariner desires the master's leave to quit the ship, he shall be bound to restore all the money he received, and pay his own charges.<sup>9</sup>

ART. XLIII.

If an officer or seaman quits a ship, and conceals himself; if afterwards he is apprehended, he shall be delivered up to justice to be punished: he shall be stigmatized in the face with the first letter of the name of the town to which he belongs.

ART. XLIV.

If a ship is lost the mariners are obliged to save as much of the goods as they can, and the master ought to reward and satisfy them for it, and pay the charge of their journey home: if the mariners refuse to assist the master, they shall have neither wages nor reward.<sup>10</sup>

ART. XLV.

If any mariner falls sick of any disease, he shall be put ashore and maintained in like manner as if he was on shipboard, and be attended by another mariner.<sup>11</sup> However, the master is not obliged to stay for him; if he recovers his health, he shall be paid his wages as much as if he had served out the whole voyage; and in case he dies, his heirs shall have what was due to him.<sup>12</sup>

ART. XLVI.

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If mariners mutiny, and force the master to enter into any harbour or port, and the ship or cargo is lost, either in whole or in part, for which the seamen run away; if afterwards they are taken, they shall be corporally punished.

ART. XLVII

The master shall not give the seamen any cause to mutiny, but supply them with what is convenient, and pay them what is their due punctually and faithfully.<sup>13</sup>

XLVIII.

The master who shall debauch a seaman, and hire him after he had hired himself to another master, shall pay 25 livres, and the mariner shall pay to the first master for damages, half the wages the second had promised him.

ART. XLIX.

If a ship is stopped in a strange country, or the mariners are forced to stay there for their freight, or on another account, they shall all that time be maintained as is usual; but shall not pretend to demand any extraordinary wages; and what is due to them shall be paid to them or their assigns, when the ship is discharged. If any seaman is so bold as to leave the ship because of her stay, he shall be corporally punished according to his demerits.

ART. L.

If a master takes any gold, silver, diamonds, or other merchandize of great price, which obliges him to have a more than ordinary care of it, a fourth part of the freight of such rich goods shall be allowed him, and the owners shall have the other three fourths.

ART. LI.

The master ought to put a mariner in each boat or lighter that is to carry salt to land as well to take care of it, as to see that a right account is kept of its measure.

ART. LII.

Mariners hired aboard ships bound for France or Spain, shall not be maintained by the masters when they are outward bound, but shall live on their own provisions; but when they are homeward bound, the master shall maintain them: and if the master advances or lends them any money, he may pay himself by deducting it out of their wages. If the ship is not laden home, the master is not obliged to maintain them.

ART. LIII.

The masters may not alienate or sell any part of their provisions or furniture until the voyage is made, and when they do, the owners shall be preferred to any other in the sale of them.

ART. LIV.

The mariners shall not take any grains of salt belonging to the ship's loading, but shall put some aboard for their own use, with the knowledge and consent of the merchant or others concerned, on pain of being severely punished.

ART. LV.

The master or the pilot may each load 12 barrels on their particular account; the other officers six each, and the seamen four each; the cook and the boys two each.<sup>14</sup>

ART. LVI.

If a master, to displease his owners, sells his part of a ship for more than it is worth, the said part shall be appraised by men of experience; after which the owners may take it or leave it at the price it was appraised at, as they think fit.<sup>15</sup>

ART. LVII.

If a master, fraudulently, shall borrow money upon bottomry, and mortgage his ship for it, or stay with it in any port a long time, and sell it, together with the merchandize, the said master shall be incapable of having the command of a ship afterwards, and never be admitted into any city, but shall be punished without mercy.

ART. LVIII

A master being at home, may not borrow any more money on bottomry, than his own part of the ship is worth; if he does, the other shares of the ship shall not be liable for it; neither shall he take any freight without the knowledge and consent of the owners.

ART. LIX.

If the owners are at variance, and cannot agree about the freight of their ship, that opinion shall carry it, which has the majority on its side by two or three. The master may also in such case, take up money upon bottomry, as well on their shares who do not consent, as on theirs who do.

ART. LX.



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A master being in a strange country, if necessity drives him to it, may take up money on bottomry, if he cannot get it without, and the owners shall bear the charge of it.<sup>16</sup>



THE  
MARINE ORDINANCES OF LOUIS XIV.

[Reprinted from 2 Pet. Adm. Append, iii.]

While the French historians have employed themselves in tracing the commercial prosperity of their nation, at the conclusion of the seventeenth, and opening of the eighteenth centuries these ordinances, the civilians and lawyers of every period which has followed their promulgation, have avowed the greatest admiration of their wisdom and their justice. To the genius of Colbert, the celebrated minister of Louis XIV, France is indebted for this excellent code. Desirous of establishing the commerce of his country on a basis which nothing could successfully assail, he selected a masterly hand to compile and arrange these laws, from prevailing maritime regulations of France and other states, and from the experience of the most respectable commercial men of country. To these regulations which, having formed a part of the maritime code of Europe, had been acknowledged as authority by all, were added others which were considered as peculiarly necessary for the trade of France. The ordinances thus formed, were published by the French king in 1681, and have since enjoyed an uncontrolled authority over the commerce of the country for which they were intended, and have obtained the respect of every maritime state.

To the testimony in favour of this collection, which has so often been given by the most celebrated jurists of Europe, I can add that of gentleman of distinguished legal acquirements, who has been recently selected, with the approbation of his country, to occupy the first judicial situation in the state of Pennsylvania. In the case of *Morgan & Price v. The Insurance Company of North America*, decided by the supreme court of this state in January, 1807, Chief Justice Tilghman, having referred to one of the articles of these ordinances, thus expressed himself: "They and the commentaries on them, have been received with great respect in the courts both of England and the United States, not as conveying any authority in themselves, but as evidence of the general marine law. When they are contradicted by judicial decisions in our own country they are not to be regarded: but on points which have not been decided, they are worthy of great consideration."

The commentaries on these ordinances by Valin, we have reluctantly consented to omit, and the design of this work necessarily excludes from it, those articles in the ordinances which are local in their nature, or are confined to the regulation of the courts or the offices of the admiralty of France. Those only have been selected, which are founded on the general principles of maritime law, and which are thought peculiarly entitled to the notice of every commercial lawyer.

MARINERS AND SHIPS.

TITLE FIRST.

Of the Captain, Master and Patron.<sup>1</sup>

I. No person shall be capable of being received captain, master, or patron of a ship, till he has navigated five years, and has been publickly examined in navigation, and judged capable by two ancient masters, in presence of the officers of the admiralty, and of the professor of hydrography, if any be in the place.<sup>2</sup>

II. We forbid all mariners to sail in quality of masters, and all owners to constitute any in their ships, before they be received in the aforesaid manner, under pain of three hundred livres, to be paid by each offender.<sup>3</sup>

III. However, such as are already masters shall not be obliged to undergo any examination.

IV. Such as have been received pilots, and have navigated two years in that quality, may be constituted masters without any examination, and without any act of the court of admiralty.

V. The master shall chuse the ship's company, and hire the pilots, mates, mariners and sailors; but he shall advise with his owners when at the port of their residence.

VI. In places where there are hospitals of poor boys, the masters shall be obliged to chuse amongst them their ship-boys.

VII. The master who shall entice away a mariner from another master, shall be fined in one hundred livres, applicable one half

to the admiral, and the other half to the first master, who may take the mariner back again if he pleases.<sup>4</sup>

VIII. A master must take care before he puts to sea, that the ship be right ballasted and laded, and well provided with anchors and tackle, and all things necessary for the voyage.

IX. He shall be answerable for all the goods laded aboard his ship, which he shall be obliged to deliver according to the bills of lading.

X. He shall be obliged to keep a book or register, quoted and flourished on every leaf by one of his principal owners, in which he shall insert the day that he was constituted master, the names of the officers and mariners of his company, the rates and conditions of their engagement, the payments he makes them, what he receives and expends for the use of the ship, and generally every thing that concerns the functions of his employment, or of which he has to render any account, or any demand to make.

XI. If, with the master's consent, there is a clerk established in the ship, to take an account of all such things, the master shall be exempt from it.

XII. No master shall lade any goods upon the ship's deck, without the order or consent of his merchants, under pain of being answerable for all the damage that may happen.

XIII. Masters shall be obliged, under pain of an arbitrary fine, to be aboard their ships themselves when they go out of any port, harbour or river.

XIV. No master, patron, pilot, nor mariner, shall be arrested for a civil debt, being a shipboard to put to sea, except it be for debts contracted for the voyage.

XV. The master, before he sets sail, shall take the advice of the pilot, mate, and other principal men of the ship's company.<sup>5</sup>

XVI. He shall be obliged before he puts to sea to give into the admiralty office, of the place of his departure, the names, surnames, and dwelling-places of his company, passengers, and persons engaged for the West Indies, and to declare at his return such as he has brought back again, and the places where he left the others.

XVII. He shall not, while in the place where his owners reside, cause the ship to be refitted, buy sails, ropes, or other things for the ship, nor take up money for that account upon the ship, without their consent, under pain of paying the same himself.<sup>6</sup>

XVIII. However, if with the owner's consent, a ship be freighted, and any of them refuses to contribute towards the necessary charges for fitting out the ship; in that case the master may take up money for bottomry for the account and upon the parts of the refusers, within four and twenty hours after he has sent them a summons in writing to furnish their proportions.<sup>7</sup>

XIX. He may likewise, during the voyage, take up money upon the ship, either for refitting, victuals, or other necessaries, or may pawn some of the rigging, or sell some goods

of his lading, upon condition to pay for them at the rate that the rest shall be sold; all which must not be done without the advice of the mate and pilot, who shall write down in the journal the necessity of such borrowing of money, or selling of goods, and the manner how the money was laid out: but the master shall not in any case have power to sell the ship, without a special procuration from the owners.<sup>8</sup>

XX. If any master, without necessity, takes up money upon the ship or rigging, sells goods, pawns the tackle, or states in his accounts false and supposed averages and expenses, he shall pay what he takes up himself, be declared unworthy of being a master, and banished from his ordinary place of residence.

XXI. Masters hired to make a voyage shall be obliged to accomplish it, under pain of making good the damages and losses to the owners and merchants; and to be proceeded against extraordinary if that happens.

XXII. They may, with the advice of the mate and pilot, cause to be ducked or put in the hold, and inflict such sort of punishments upon drunken and disobedient seamen, or upon such as abuse their comrades, or commit such other faults and offences during the voyage.<sup>9</sup>

XXIII. And such as shall be guilty of murder, assassination, blasphemy, or other capital crimes committed at sea, the masters, mates and quarter-masters, shall be obliged under the entire penalty of one hundred livres, to inform against them, to seize their persons, and make the necessary proceedings for instituting process, in order to deliver the criminal into the hands of the officers of the admiralty, at the place of the lading or unlading of the ships within our kingdom.<sup>10</sup>

XXIV. We forbid all masters, under pain of exemplary punishment, to enter, except in cases of necessity, into any foreign port; and in case they be forced into any by tempest or pirates, they shall put to sea again with the first conveniency.<sup>11</sup>

XXV. We enjoin all captains and masters, making long voyages, to assemble every day at noon, and oftener if necessary, the mates and pilots, and other expert persons,

and to confer with them about the latitudes taken, the courses made, and to be made, and about their calculations.

XXVI. They shall not abandon their ships during the voyage, notwithstanding any danger, without the advice of the most expert officers and mariners; and in that case, they shall be obliged to carry off with them the money and the most precious goods they have on board, under pain of answering for it themselves, and of personal punishment.

XXVII. If the effects so taken out of the ship be lost by any accident, the master shall be free from any danger.

XXVIII. The masters and patrons who sail in partnership with other, owners, shall have no separate dealings for their own particular account, under pain of confiscation of their goods for the benefit of the other partners.

XXIX. They shall not borrow for their voyages any more money than what is necessary for their lading, under pain of being deprived of their places, and their share in the profits.

XXX. They shall be obliged, under the like penalty, to give before their departure, to the proprietors of the ship, a signed account of the quality and price of the goods they have aboard, and of the sums of money borrowed by them, together with the names and dwelling places of the lenders.

XXXI. If the common stock of provisions fail at sea, the master may compel such as have any in particular to deliver them up for the use of all, subject to the payment of the price thereof.

XXXII. No master shall sell the provisions of his ship, nor divert and conceal them, under pain of bodily punishment<sup>12</sup>

XXXIII. They may however, with the advice and consent of the officers, sell to ships found in necessity at sea, provided they have enough remaining for their own voyage, and render an account thereof to the owners.<sup>13</sup>

XXXIV. At the return of the voyage, the victuals and ammunitions shall be remitted by the master into the hands of the owners.<sup>14</sup>

XXXV. If the master steer a false course, commit any robbery, or suffer any to be committed in his ship, or fraudulently give way to any alienation or confiscation of ship or goods, he shall be punished corporally.

XXXVI. A master being convicted of having delivered to the enemy, or maliciously run his ship aground, shall be punished with death.

## TITLE SECOND.

### Of the Mate.

I. The mate shall take care of the fitting out of the vessel, and before they put to sea, shall examine whether it be sufficiently provided with ropes, pulleys, sails, and other rigging necessary for the voyage.

II. At the departure he shall see the anchor hoisted; and during the voyage, he shall visit once a day all the tackle high and low; and if he observes any thing amiss, shall acquaint the master.

III. He shall execute in the vessel, and cause to be executed, day and night, the orders of the master.

IV. Arriving at a port he shall cause the cables and anchors to be prepared, and shall have the care and management of the sails and yards, and moorings of the ship.

V. In case of the absence or sickness of the master, the mate shall command in his place.

### TITLE THIRD.

#### Of Seamen.<sup>15</sup>

I. The seamen shall be obliged to appear at the days and places appointed, to take aboard the provisions, rig out the ship, and set sail.<sup>16</sup>

II. A seaman hired for a voyage must not leave the ship, without a discharge in writing, till the voyage is ended, and the ship moored at the key and unladed.<sup>17</sup>

III. If a seaman leaves a master without a discharge in writing before the voyage is begun, he may be taken up and imprisoned wherever he can be found, and compelled to restore what he has received, and serve out the time for which he had engaged himself for nothing; and if he leaves the ship after the voyage is begun, he may be punished corporally.<sup>18</sup>

IV. However, if after the arriyal and unlading of a ship at the intended port, the master, instead of returning, takes a freight to go elsewhere, the seamen may leave him if they please, except it be otherwise provided by their agreement

V. After the ship is laded, the seamen shall not go ashore without leave from the master, under pain of five livres for the first fault: and may be punished corporally if they commit a second.<sup>19</sup>

VI. We forbid the mariners and seamen to take any bread or victuals, or draw any



drink without the permission of the master or steward, under pain of the loss of one month's wages, and of a greater punishment if the fault deserves it.<sup>20</sup>

VIX The seamen or other that spoils the drink, destroys the bread, makes the ship leaky, excites a sedition to break the voyage, or strikes the master having arms in his hand, shall be punished with death.<sup>21</sup>

VIII. Any seaman sleeping in his post or upon the watch, shall be put in irons during fifteen days; and any of the company finding one asleep, and not acquainting the master therewith, shall pay five livres.<sup>22</sup>

IX. Any mariner abandoning the master, and the defence of the ship in time of battle, shall be punished corporally.

#### TITLE FOURTH.

##### Of the Owners of Ships.

I. All our subjects, of any quality or condition whatsoever, may cause ships to be built or bought, fit them out for themselves, freight them to others, and drive a trade at sea by themselves, or by persons interposed; by which gentlemen shall not be reputed to do any act derogatory to their quality, provided they sell nothing by retail.

II. <sup>23</sup>The owners of ship shall be answerable for the deeds of the master; but shall be discharged, abandoning their ship and freight.

III. However, the owners of armed ships shall not be answerable for their crimes and piracies committed at sea by the crews of their ships, any further than for the sums for which they may have given security, except it appear that they are partakers or accomplices in the crimes.

IV. The owners of ships may dismiss the master, reimbursing him, if he requires it, for his part in the ship, according to the estimation of understanding persons.<sup>24</sup>

V. In every thing concerning the common interest of the owners, the opinion of the greater number shall prevail; and the number shall be computed according to the shares that every man has in the ship.<sup>25</sup>

VI. No person may constrain his partner to proceed to the sale of a ship, except the opinions of the owners be equally different about the undertaking of any voyage.<sup>26</sup>

#### TITLE FIFTH.

##### Of Ships and Vessels.

I. All ships and vessels shall be reputed personalty, and shall not be subject to redemptions,<sup>27</sup> nor to pay any duties to the lords of manors.

II. All vessels however, shall be liable for the debts of the seller, until they have made a voyage under the name, and at the risque of the new acquirer, except they have been sold by adjudication<sup>28</sup>

III. The sale of a ship in voyage, or under a private contract, shall not in any manner be prejudicial to the creditors of the seller.

IV. All ships shall be gauged immediately after they are perfected, by the viewers or overseers of the trade or mystery of carpenters; who shall give an attestation of the burthen of the ship, which shall be registered in the admiralty office.

V. To discover and regulate the burthen and capacity of a ship, the hold shall be measured at the rate of two and forty foot cube for the sea ton.

VI. The officers of the admiralty shall be obliged under pain of interdiction of their offices, to take every year, in the month of December, an account of all the ships belonging to the inhabitants of their jurisdiction; which shall contain their burthen, age, quality and shape, with the names of the owners; all which they shall send to the secretary of state, who has the management of the marine affairs of that department.<sup>29</sup>

**MARITIME CONTRACTS.**

**TITLE FIRST.**

**Of Charter Parties and Freightings of Ships.**

I. All articles for freightings of ships shall be reduced into writing, and agreed to by the merchants that freight, and the master or owners of the ships freighted.

II. The master shall observe the orders of his owners, when he freights the ship at the place of their residence.<sup>30</sup>

III. The charter party shall contain the name and burthen of the vessel, the names of the master and freighters, the place and time of the lading and unlading, the freight, the time the vessel is to stay at the respective ports, and the conventions about demurrage; to which the parties may add such other conditions as they please.

IV. The time of the lading and unlading the goods shall be regulated according to the custom of the respective ports, except it be determined by the charter party.

V. If a ship be freighted by the month, and the time of the freight be not regulated by the charter party, it shall only commence from the day that the ship shall sail.

VI. He who after having received a summons in writing to fulfil the contract refuses it, or delays it, shall make good all the loss and damage.

VII. But if before the departure of the ship, there should happen an embargo, occasioned by war, reprisals, or otherwise, with the country whither the ship is bound, the charter party shall be dissolved, without any damages or charges for either party, and the merchant shall pay the charges of lading and unlading his goods: but if the difference be with one another, the charter party shall be valid in all its points.

VIII. If the ports be only shut, and the vessel stopped by force for a time, the charter party shall still be valid, and the master and merchant shall be reciprocally obliged to expect the opening of the ports and the liberty of the ships, without any pretensions for damages on either side.

IX. However the merchant may at his own charge unload his goods during the embargo, or shutting up of the port, upon condition either to load them again, or indemnify the master.

X. The master shall be obliged, during the voyage, to have aboard the charter party, and the other necessary deeds concerning his lading.

XI. The ship, rigging and tackle, and the freight and goods laded, shall be respectively affected by the conventions of the charter party.

**TITLE SECOND.**

**Of Bills of Loading.**

I. All bills of loading for goods put aboard a ship, shall be signed by the master or the clerk of the ship.

II. All bills of loading shall contain the quality, quantity, and mark of the goods, the names of the persons that lade them, and of those to whom they are consigned, the places of departure and unloading the names of the master and the ship, and the value of the freight.

III. All bills of loading shall be triple, one shall remain in the hands of the lader, another shall be sent to the person to whom the goods are to be consigned, and the third shall be left in the hands of the master or clerk.

IV. The merchants shall be obliged within four and twenty hours after the goods are laded, to present the bills of loading to be signed by the masters, and to give them the acquittances and discharges for the customs of their goods, under pain of paying the damages of the retardment.

V. Factors and others, receiving goods expressed in bills of loading, or charter parties, shall be obliged to give a receipt thereof to the masters upon their demanding it, under pain of all expenses, damages and losses, and those of the retardment as well as others.

VI. In case of any diversity in bills of loading taken for the same goods, that which shall be in the hands of the master shall be authentic, if filled up by the merchant or his factor; and that which is in the hands of the merchant shall be good, if filled up by the captain.

### TITLE THIRD.

#### Of Freight.

I. The freight of ships shall be regulated by the charter party or bill of lading, whether the ships be freighted in whole or in part, for the voyage, or by the month, expressing the burden by the ton, the quintal, by parts, or any other way.

II. If a vessel be hired, and the freighter does not put her full loading aboard, the master shall not take aboard any other goods without his consent nor without rendering him an account of the freight.

III. A merchant not loading the quantity of goods mentioned by the charter party, shall notwithstanding pay the freight as if he had done it; and if he loads any more, he shall pay freight for them.

IV. A master that declares his vessel to be of greater burden than she is, shall sustain the damages thereby happening to the merchant.

V. It shall not be reputed an error in the declaration of the ship's burden, if the difference does not exceed one fortieth part.

VI. If the vessel be laded by parts, or by the quintal, or by the ton, a merchant being desirous to take out his goods before, her departure, may do it at his own charge, paying half freight.

VII. A master may likewise unlade and lay down upon the shore any goods found in his ship, and put on board there without his

knowledge, or take freight at the highest rate that any goods of that quality pay.

VIII. A merchant unloading his goods during a voyage, shall nevertheless pay the whole freight, except he be obliged to unload them by the deed of the master.

IX. If a ship is stopped in her course, or at the port of her unloading, by the deed of the merchant that freights her, or if she, after having been freighted outward and inward, is forced to return empty, the damages of the retardment, and the whole freight shall be, notwithstanding, due to the master.

X. The master shall be likewise answerable for the damages of the freighter, if according to the judgment of intelligent persons, a vessel is stopped in her course, or at a port, by the deed of the master.

XI. If a master is obliged to cause his ship to be refitted during a voyage, the freighter shall be obliged either to wait or pay the whole freight; and if the ship cannot be rigged out, the master shall forthwith hire another; and if none can be found, he shall only be paid in proportion to the part he has performed on the voyage.

XII. However, if the merchant prove that when the ship put to sea she was unfit for sailing, the master shall lose his freight, and pay the other damages and losses.

XIII. The master shall be paid the freight of goods thrown overboard for the common safety, out of the contribution.

XIV. Freight shall likewise be due for goods that the merchant may have been forced to sell for victuals, refitting, and other pressing necessities, an account being kept by him of their value, according as the rest are sold at the place of unloading.

XV. If there happens an interdiction of commerce with any country to which a vessel is bound, and in her course, so that she returns with her loading, there shall only be due to the master the freight for going thither, even though the ship be freighted to go and come.

XVI. If a vessel, in the course of her voyage, be arrested by a supreme power, there shall be no freight due for the time of their detention, if freighted by the month; nor no augmentation, if freighted by the voyage; but the food and wages of the seamen, during the detention, shall be reputed average.

XVII. In case the person mentioned in any bill of loading refuse to accept the goods, the master, by the authority of the judges, may cause some to be sold for the payment of his freight, and deposit the rest in a warehouse.

XVIII. No freight shall be due for goods lost by shipwreck, or taken by pirates or enemies; and in that case, the master shall be obliged to restore what has been advanced to him, except there be some agreement to the contrary.

XIX. If the ship and goods be ransomed, the master shall be paid his freight to the place where they were taken; and he shall be paid his whole freight if he conduct them to the place agreed to, he contributing towards the ransom.

XX. The contribution for the ransom shall be made according to the current price of the goods at the place of their unlading, deducting the charges, and upon the total of the ship and freight, deducting the victuals made use of, and the money advanced to the seamen; who shall likewise contribute towards the discharge of the freight, in proportion of what shall remain due to them of their wages.

XXI. The master shall likewise be paid the freight of goods saved from shipwreck, he conducting them to the place appointed.

XXII. If he cannot find a ship to carry thither the goods preserved, he shall only be paid his freight in proportion to what he has performed of the voyage.

XXIII. The master shall not detain the goods in his ship for default of the payment of his freight, but at the time of unloading, he may hinder them from being carried away, or cause them to be seized in the hoys or lighters.

XXIV. The master shall be preferred for his freight upon the goods of his lading, as long as they are in the ship, in lighters, or upon the quay; and he shall likewise be preferred wherever the goods may be, within fifteen days after the delivery, provided they are not passed into the possession of a third person.

XXV. Merchants may not oblige masters to take for their freight goods that are fallen in price, or that are spoiled or damnified by their own fault, or by accident.

XXVI. However, if goods contained in casks, such as wine, oil, honey, and other liquors, have leaked so much that the casks are empty, or almost empty, the merchants that laded them, may abandon them to the master for the freight.

XXVII. We forbid all brokers and others to cause, underhand, more freight to be paid for goods than is expressed in the first contract or charter party, under pain of one hundred livres, and a severer punishment if they deserve it.

XXVIII. However, the freighter of a whole ship that has not compleated her lading, may take in other goods to make it up, and apply the freight to his own use.

#### TITLE FOURTH.

##### Of the Contracts and Wages of Seamen.

I. All agreements between masters and their seamen, shall be reduced into a writing, which shall contain all the conditions, whether they engage themselves by the month, or for the voyage; whether by the profit or freight; if otherwise, the seamen's oath shall be believed.

II. The seamen shall not load any goods

upon their own account, under pretence of portage,<sup>31</sup> nor otherwise, without paying the freight, except it be mentioned in their agreement.

III. If by the fault of the owners, masters or merchants, a voyage be broke before the departure of the ship, the seamen hired for the voyage shall be paid for the time taken up in rigging and equipping the ship, and have one fourth of their wages; and those engaged by the month, shall be paid in proportion, regard being had to the ordinary length” of the voyage: but if the voyage be broke after it is begun, the seamen hired for the voyage shall be paid their whole wages, and those hired by the month what is due to them for the time they have already served, and for that which will be necessary for returning to the place from whence the ship departed; and both shall be paid for their maintenance till they arrive there.

IV. In case of a prohibition of trade, with the place to which the ship is bound, before the voyage begins, there shall be no wages due to the seamen of either sort; who shall only be paid for the time spent in fitting out the ship: and if such prohibition happens during the voyage, they shall only be paid in proportion to the time they have served.

V. If the ship be stopped by a sovereign order before the voyage be begun, there shall be nothing due to the seamen, but their wages for fitting out the ship; but if it is during the course of the voyage, those engaged by the month shall have half wages during the detention of the ship, and those engaged by the voyage shall be paid according to their agreement.

VI. If the voyage be prolonged, the wages of the seamen hired by the voyage shall be augmented proportionably,<sup>32</sup> and if they voluntarily unlade in a nearer port than that mentioned in the agreement, their wages notwithstanding shall not be diminished: but if they are hired by the month, they shall be in both cases paid for the time they serve.<sup>33</sup>

VII. And as for the seamen and others going by the profit or freight, they shall not pretend any wages for equipping or damages, if the voyage be broke, retarded or prolonged by a superior power, whether before or after the departure of the ship; but if the breaking, retarding or prolonging of the voyage, happens by the fault of the freighters, the seamen shall have share in the costs and damages allowed the master, who, as well as the owners shall pay damages to the seamen, if they be the cause of the hindrance.

VIII. In case the ship be taken, or suffer shipwreck, and ship and goods be entirely lost, the seamen shall pretend to no wages; but they shall not however be obliged to restore what has been advanced to them.

IX. If some part of the ship be preserved, the seamen shall be paid the wages that are due to them out of the wreck they have preserved; and if there be only goods saved, the seamen, even those that are engaged by the freight, shall be paid their wages by the mas-

ter, proportionably to the freight he receives; and whatever way they be hired, they shall be over and above paid for the time they are employed in saving the wreck and goods.<sup>34</sup>

X. If a master dismiss a mariner without a sufficient cause before the voyage is begun, he must pay him one third of his wages; and if after the voyage is begun, he shall pay him his whole wages, together with his charges for returning to the place of his departure; nor shall he state that to the account of his owners.<sup>35</sup>

XI. If a seaman be wounded in the service of a ship, or fall sick during the voyage, he shall be paid his wages, and treated at the charge of the ship, and if he be wounded in fighting against enemies or pirates, he shall be cured at the charge of ship and cargo.<sup>36 37</sup>

XII. But if being on shore without leave, he be there wounded, he shall not be dressed at the charge of the ship, nor of the loading; and he may be dismissed, without pretending to any more than the wages that are due to him.<sup>38</sup>

XIII. The heirs of a seaman hired by the month, and dying in the voyage, shall be paid his wages until the day of his decease.<sup>39</sup>

XIV. The half of the wages of a seaman hired by the voyage shall be due to his heirs if he dies outward bound, and the whole if he dies in the way home: and if he sailed by the profit or freight, his heirs shall enjoy his full share, if the voyage be begun before his death.<sup>40</sup>

XV. The wages of a seaman killed in defending the ship shall be entirely paid as if he had served all the voyage; provided the ship arrives safe at a good harbour.

XVI. Seamen taken in ships and made slaves, shall pretend nothing against the



masters, owners, or merchants for their ransom.

XVII. But if any of them, being sent out for the service of the ship, be taken ashore, or at sea, his ransom shall be paid at the expenses of the ship; and if he was sent out for the service of ship and cargo, his ransom shall be paid by both, if they arrive happily at a good port: however the whole shall not exceed three hundred livres besides his wages.<sup>41</sup>

XVIII. The master, immediately after the arrival of the ship, shall take care to regulate the sums appointed for the ransom of captives, and the money shall be deposited in the hands of the principal owner, who shall be obliged forthwith to apply it to that use, under pain of four times the value to be paid by him, for the benefit of the seamen that are in servitude.

XIX. The ship and freight shall be specially liable for the seamen's wages.

XX. The seamen's wages shall not contribute towards any average, except it be for the ransom of the ship.

XXI. What is ordained in this title for the wages and ransom of the seamen, and dressing and treating of the sick, shall take place for the officers and all others belonging to the ship.

#### TITLE FIFTH.

##### Of Contracts of Bottomry, etc.<sup>42</sup>

I. All contracts of bottomry may be made either by a public notary, or under a private signature.

II. Money may be given upon the body and keel of the ship, and upon her rigging and tackle, munitions and provisions, jointly or separately, and upon all, or any part of her loading, for one whole voyage, or a time limited.

III. We forbid all persons to take up, upon their ships or goods on board thereof, more than their real value, under pain of being obliged in ease of fraud, to pay the whole sums, notwithstanding the vessel should be lost or taken.

IV. We also forbid, under the like penalty, to take up any money upon the freight for the voyage to be made, or upon the profit expected on the lading, or even upon the seamen's wages; except it be in the presence and with the consent of the master, and under one half of the aforesaid wages.

V. We moreover forbid all persons to advance any money to seamen upon their wages and voyages in that manner, except it be in the presence and with the consent of the master, under pain of confiscations of the sums lent, and a fine of fifty livres.

VI. The masters shall be answerable in their names, for the total of the sums taken up by the seamen with their consent, except they exceed one half of their wages, and that notwithstanding the loss or taking of the ship.

VII. The ship, her rigging and tackle munitions and provisions, and even the freight, shall be by privilege affected for the payment of the principal and interest of money given upon the body and keel of the ship, for the necessities of the voyage, and the lading.<sup>43</sup>

VIII. Such as give money upon bottomry to a master without the consent of the owners, if they live in the place, shall have no security nor privilege upon the ship, any further than the part that the master may have in the ship and freight, though the money was borrowed for rigging the ship, or for buying provisions.<sup>44</sup>

IX. However, the parts of such of the owners as refuse to furnish their proportions for fitting out the vessel, shall be affected for the money lent to the master for the equipment and provisions of the ship.<sup>45</sup>

X. Creditors for money formerly due for such things, shall not come in competition with those that have actually lent for the last voyage.<sup>46</sup>

XI. All contracts of bottomry shall become void by the entire loss of the effects upon which the money was lent, if that happens by casualty, and within the times and places therein expressed.

XII. Nothing shall be reputed a casualty that is occasioned by the defects of the things themselves, or by the fault of the owners, master or merchants, except it be otherwise provided by the contract.

XIII. If the time of the risk be not regulated by the contract it shall last as to the ship, her rigging, tackle and provisions, from the day she sets sail till she arrives at her intended port, and is moored at the quay; and as to the goods, it shall last from the moment they are laded on board the ship or lighter to be carried thither, till they be unladed and ashore.<sup>47</sup>

XIV. A person loading goods and taking up money upon them on bottomry, shall not be acquitted by the loss of the ship and lading, unless he makes it appear that he had there, upon his own account, effects to the value of the sum so borrowed.

XV. However, if the person that has taken money upon bottomry, makes it appear that he could not load goods to the value of the sum so borrowed, the contract, in ease of loss, shall be diminished in proportion to the value of the effects loaded, and shall only subsist for the overplus; of which the borrower shall pay the interest, according to the current price of the place where the contract is made, till the actual

payment of the principal: and if the ship arrives in safety, there shall be due only the interest, and not the maritime profit of the overplus of the effects put aboard.

XVI. Lenders of money on bottomry, shall contribute towards gross averages, such as redemptions, compositions, ejections, masts and ropes, cut for the common safety of ship and goods; but not for the simple averages, or particular damages that may happen, except there intervene some agreement to the contrary.

XVII. However, in case of shipwreck, the contracts of bottomry shall be reduced to the value of the effects that are saved.

XVIII. If there be a contract of bottomry, and insurance upon the same loading, the lender shall be preferred to the insurers upon the effects preserved from shipwreck, for his capital, and no further.<sup>48</sup>

#### TITLE SIXTH.

##### Of Insurances.

I. We allow all our subjects, as well as strangers, to insure, and cause to be insured, within the extent of our dominions, the ships, goods and effects, which shall be transported by sea or by navigable rivers; and we allow the insurers to stipulate a price, for which they will take the peril upon them.

II. The contract called "Policy of Insurance," shall be reduced into writing, and may be done under private signature.

III. The policy shall contain the name and dwelling place of the insured, his quality, whether of owner or factor, the effects upon which insurance is made, the name of the ship and master, that of the place where the goods are loaded, and from whence the ship departs, and that whither the ship is bound, and where the goods are to be unloaded; and also the names of all the places where the ship is to touch, the time that the risk is to begin and end, the sums insured, the premium or cost of the insurance, the submission of the parties to arbitrators in case of contestation; and generally all other conditions which they shall stipulate between them.

IV. Goods loaded in Europe for the ports of the Levant, the coasts of Africa, and other parts of the world, may be insured upon any ship whatsoever, without naming either the master or the ship, provided the name of the person to whom they are consigned be expressed in the policy.

V. If the policy does not regulate the time of the risk, they shall be regulated as are the contracts of bottomry, by the thirteenth article of title fifth.<sup>49</sup>

VI. The premium, or cost of the insurance, shall be entirely paid at the signing of the policy; but if the insurance be made upon goods both out and home, and the vessel having arrived at the intended port do not return the insurers shall restore one third of the premium, except there be a stipulation to the contrary.

VII. Insurances may be made upon the body and keel of the ship, empty or laded, before or during the voyage; upon the provisions and upon the goods, jointly or separately laded on board of any ship, armed or unarmed, alone or in company, for the going out or coming home, for a whole voyage, or a time limited.

VIII. If the insurance be made upon the body and keel of the ship, her rigging, tackle, munitions and provisions, or upon any portion thereof, the estimation shall be made in the policy; allowing the insurer, in case of fraud, to oblige the concerned to proceed to a new estimation.

IX. All navigators, passengers, and others, may insure the liberty of their persons; and in that case the policies shall contain the name, country, residence, age and quality of the person that insures himself; the name of the ship, of the port from whence she sails, and that of her last departure; the sum to be paid in case of being taken, as well for the ransom as the charges of returning; to whom the money shall be paid, and under what penalty.

X. We forbid all insurances upon the lives of any person.

XI. However, such as redeem captives may insure the lives of those they redeem, and the price of the redemption; which the insurers shall be obliged to pay, if the person redeemed is taken again, or killed, or drowned in his return, or if he perish by any other means but by a natural death.

XII. Women, may lawfully engage themselves, and alienate their patrimonial estates, for the redemption of their husbands.

XIII. Any person, who, upon the wife's refusal, and by the authority of justice, lends money for the ransom of the husband shall be preferred to the wife upon the husband's estate, except for the restitution of her patrimony.

XIV. Minors may, likewise, with the advice of their relations, contract such obligations for ransoming their fathers from captivity, without any possibility of revocation.

XV. The owners nor masters of ships shall not insure beforehand the freight of their ships; the merchants, the profit they expect by their goods; nor the seamen, their wages.

XVI. We forbid all persons borrowing money upon bottomry to insure it, under pain of the insurance being void, and corporal punishment

XVII. We likewise forbid, under the same penalty, the lenders upon bottomry to insure the profit of the sums lent.

XVIII. The insured shall still run the hazard of the tenth part of the effects they lade, except there be a positive clause in the policy, declaring that they mean to insure the whole.

XIX. And if the insured be in the ship, or if they be the owners, they shall nevertheless

run the risk of one tenth, though they declare that they mean to insure the whole.

XX. The insurers may re-insure with others the effects they may have insured, and the insured may likewise cause to be insured the premium of the insurance, and the solvency of the insurers.

XXI. The premiums of the re-insurance may be smaller or greater than those of the insurance.

XXII. We forbid to cause to be insured, or re-insured, any effects beyond their value, by one or several policies, under pain of nullity of the insurance and confiscation of the goods.

XXIII. However, if there happens to be made without fraud, a policy exceeding the value of the effects laded, it shall subsist for the value of the goods: and in case of loss, the insurers shall be bound, every one for the sum by him insured, and likewise to restore the overplus of the premium, retaining only a half per cent.

XXIV. And if there happen to be several policies likewise made without fraud, and the first contains the value of the goods laded, it shall subsist alone, and the other insurers shall not be bound in the insurance, but shall render the premium, retaining only a half per cent.

XXV. In case the first policy does not amount to the value of the effects laded, the insurers of the second shall be answerable for the overplus; and if there be effects laded to the value of the insurance, in case of the loss of some part of them, it shall be paid by the insurers there mentioned at so much per<sup>50</sup> livre of the sums they are concerned in.

XXVI. All losses and damages happening at sea by tempest, shipwreck, running aground or aboard of other ships, changing of course of the voyage or course of the ship, ejection, fire, taking, rifling, detention by princes' declarations of war, reprisals, and generally by all other maritime accidents, shall be at the risk of the insurers.

XXVII. However, if the changing of the course, voyage or ship, happens by the order of the insured, without the consent of the insurers, they shall be discharged from the risk; which shall likewise take place in all other losses and damages happening by the fault of the insured; nor shall the insurers be obliged to restore the premium, if the time of their bearing the risk be begun.

XXVIII. Nor shall the insurers be obliged to bear the losses and damages happening to ships and goods by the fault of the master and mariners, except that by the policy they be engaged for the barratry of the master.

XXIX. The wastes, diminutions, and losses, happening by the proper defects of the goods, shall not fall upon the insurers.

XXX. Nor shall they be concerned in the pilotage, lodemanage, duties of passports, searchings, declarations, anchorage, or in any others imposed upon ships or goods.

XXXI. The goods subject to leakage shall be expressed in the policy; if not, the insurers shall not be answerable for damages befalling them by tempest, except the insurance be made upon returns from foreign countries.

XXXII. If the insurance on goods be made separately by several ships mentioned, and the whole loading be put in one, the insurer shall only run the risk of the sum insured upon the ship in which the goods are loaded, even though all the ships together should perish; and he shall restore the premium of the overplus, retaining only a half per cent

XXXIII. When the masters and patrons have liberty to touch at several ports, the insurers shall not run the hazard of the effects which shall be ashore, though they be intended for the loading they have insured, and the ship be in the port to take them aboard; except there be an express clause for it in the policy.

XXXIV. If the insurance be made for a limited time, without expressing the voyage, the insurer shall be discharged after the expiration of the time, and the insured may cause the goods to be insured again.

XXXV. But if the voyage be expressed in the policy, the insurer shall run the hazard of the whole voyage; upon condition however, that if it exceeds the limited time, the premium shall be augmented in proportion: nor shall the insurer be obliged to restore any thing, if the voyage be sooner ended.

XXXVI. The insurers shall be discharged from the risk, without losing the premium, if the insured, without their consent, send the ship to a place farther distant than that mentioned in the policy, though in the same course: but the insurance shall have its full effect, if the voyage be only shortened.

XXXVII. If the voyage be entirely broke before the departure of the ship, though by the fault of the insured, the insurance shall remain null; and the insurers shall restore the premium, all but a half per cent.

XXXVIII. We declare void all insurances made after the loss or arrival of the effects insured, if the insured knew, or could know of the loss, or the insurer of the arrival, before the signing of the policy.

XXXIX. The insured shall be presumed to have known of the loss, and the insurer of the arrival of the effects insured, if it be found that the news might have been brought from the place of the loss or arrival of the ship, to that of the signing of the policy, after either of these happened, and before the signing; allowing a league and a half per hour, without the prejudice of such other proofs as may be brought.

XL. However, if the insurance be made upon good or bad news, it shall subsist; except it be made appear, by other proofs than that of the league and half per hour, that the

insured knew of the loss, or the insurer of the arrival of the ship, before the signing of the insurance.

XL I. In case of proof against the insured, he shall be obliged to restore to the insurer what he has received, and pay him double the premium; and if there be proof against the insurer, he shall be likewise condemned to the restitution of the premium, and to pay the double to the insured.

XL II. When the insured receives advice of the loss of the ships or goods insured, of the detention thereof by any prince, and other accidents in which the insurers are concerned; he shall be obliged to cause it forthwith to be signified unto them, or to the person that has signed the policy for them, with protestation to make his abandonment in time of place.

XL III. However, the insured, instead of protestation, may at the same time make his abandonment, and summons the insurers to pay the sums insured, within the time specified in the policy.

XL IV. If the time of payment be not specified in the policy, the insurers shall be obliged to pay the insurance within three months after the signification.

XL V. In case of shipwreck, or running aground, the insured may endeavour to recover the shipwrecked effects, without prejudice of the abandonment, which he may make in time and place; and of the reimbursement of his charges, as to which his affirmation shall be believed, to the value of the effects preserved.

XL VI. An abandonment shall not be made but in case of being taken, wrecked, run aground, stopped by a prince, or the entire loss of the goods insured; and all other damages shall only be reputed average, and shall be regulated between the insurers and insured, in proportion to their concerns.

XL VII. No person can make an abandonment of one part, retaining the other; nor any demand for average, except it exceed one per cent.

XL VIII. Abandonments, and all demands for the execution of a policy, shall be made to the insurers within six weeks after the news of losses happened upon the coasts of the same province where the insurance is made; and for those that happen in another province of our kingdom, within three months; upon the coasts of England, Flanders and Holland, four months; upon those of Spain, Italy, Portugal, Barbary, Muscovy and Norway, one year; and upon the coasts of America, Brazil, Guinea, and other remote countries, two years; and that time being expired, the insurers shall not be heard in their demands.

XL IX. In case of a ship's being detained by any prince, the abandonment shall not be made until six months afterwards, if the ship be stopped in Europe or Barbary; and a year in remoter countries; reckoning from the day that that was signified to the insurers: and in

that case, the exception against the insurers mentioned in the precedent article, shall only commence from the day that they may have begun to act therein.

L. However, if the goods so stopped be perishable, the abandonment may be made after six weeks, if they be stopped in Europe or Barbary; and after three months, if in a remoter country; counting from the day that the stoppage was signified to the insurers.

LI. The insured shall be obliged during these delays to use their utmost endeavours to get the arrest taken off the effects that are detained; and the insurers may do it themselves, if they please.

LII. If a vessel be detained by our order, in any port of our kingdom, before the voyage be begun; the insured may not, because of that arrest, abandon his effects to the insurer.

LIII. The insured shall be obliged, in making his abandonment, to declare all the insurances that he has caused to be made, and the money taken on bottomry upon the effects insured; under pain of being deprived of the benefit of the insurances.

LIV. If the insured conceals any insurances or contracts of bottomry, which, with these he declares, exceed the value of the effects insured, he shall be deprived of the benefit of the insurances, and obliged to pay the sums borrowed, notwithstanding the loss or taking of the vessel.

LV. And if he sues for payment of the sums insured beyond the value of his effects, he shall further be punished exemplarily.

LVI. The insurers of the loading shall not be obliged to pay the sums by them insured, beyond the value of the effects of which the insured proves the loading and the loss.

LVII. The evidences<sup>51</sup> of the loading, and loss of the effects insured, shall be signified to the insurers immediately after the abandonment, and before they be sued for payment of the sums insured.

LVIII. However if the insured receives no news of his ship, he may, after the expiration of one year (reckoning from the day of departure) for the ordinary voyages, and after two years for long voyages, make his abandonment to the insurers, and demand payment, without any necessity of an attestation for certifying the loss.

LIX. Voyages from France into Muscovy, Greenland, Canada, Newfoundland, and other coasts and islands of America, to the Green Cape and coasts of Guinea, and all other places beyond the tropic, shall be reputed long voyages.

LX. After the abandonment is declared, the effects insured shall belong to the insurer; who must not, under pretence of the returning of the vessel, delay to pay the sums insured.

LXI. The insurer may bring what proofs he can against the validity of the attestations;



but shall nevertheless be condemned by provisions to pay the sums insured; security being given him by those to whom he pays them.

LXII. A master causing goods loaded on board his own ship for his own account to be insured, shall be obliged, in case of the loss thereof, to prove the buying of them, and to produce a bill of loading signed by the clerk and the pilot.

LXIII. All mariners and others, who shall bring goods from foreign countries upon which they have caused insurance to be made in France, shall be obliged to leave a bill of lading in the hands of the French consul or his chancellor, if there be any in the place where the goods are loaded; and if otherwise, in the hands of some eminent merchant of the French nation.

LXIV. The value of the goods shall be proved by books or invoices; if otherwise, the estimation thereof shall be made according to the current price at the place and time that they were loaded: included all duties and charges in getting them abroad; except the value be expressed in the policy.

LXV. If insurance be made upon returns from a country where traders only carry on by barter, the returns shall be made according to the value of the goods given in exchange for them, including the charges of their transportation.

LXVI. In case of capture the insured may redeem their effects without the order of the insurers, if they cannot give them advice thereof; but they must afterwards inform them by writing of the composition they have made.

LXVII. The insurers may take the composition for their benefit, in proportion to their concerns; and in that case they shall be obliged forthwith to make their declaration, to contribute actually towards the payment of the ransom, and to run the hazard of the return; or otherwise to pay the sums by them insured, without having any pretensions upon the ransomed effects.

LXVIII. We forbid all makers of policies, clerks of the chambers of insurance, notaries, brokers and others, to cause to be signed any policies where any blank is left, under pain of all damages and charges; and likewise to draw up any in which they themselves are concerned directly or indirectly by themselves, or by persons interposed; or to take any cession of right from the insured, under pain of five hundred livres for the first time, and deprivation of their employments in case of a relapse; which penalties shall not be in any manner moderated.

LXIX. We likewise enjoin them under the like penalties, to have a register quoted and flourished on every leaf by the lieutenant of the admiralty, and therein to record the policies they draw up.

LXX. When the policy contains a submission to arbitration, and one of the parties desire to go before the arbitrators before any contest happens, the other party shall be obliged to consent; or if otherwise, the judge shall name for the refuser.

LXXI. Within eight days after the nomination of the arbitrators, the parties shall deliver the deeds and writing into their hands; and within the eight days following, they shall pronounce sentence thereupon.

LXXII. The decisions of arbitrators shall be confirmed in the court of admiralty, within the jurisdiction of which they are pronounced: and we forbid the judge, under that pretence, to take any knowledge of the cause, under pain of nullity, and all the charges, costs and damages of the parties.

LXXIII. Appeals from decisions by arbitrators' sentences and confirmations, shall be carried before our courts of parliament, and shall not be received until the penalty expressed in the clause of submission be paid.

LXXIV. The sentences of arbitrators may be executed, notwithstanding the appeals; security being given before the judges who confirm them.

## TITLE SEVENTH.

### Of Averages.<sup>52</sup>

I. All extraordinary charges for the ships and their lading jointly or separately, and all damages which shall befall them from the time of their loading and departure, till their arrival and unloading, shall be reputed average.

II. The extraordinary charges for the ship alone, or for the goods alone, and the damage befalling either in particular, shall be simple and particular averages, and the extraordinary charges paid, and damages suffered for the common good and safety of ship and goods, shall be gross and common averages.

III. The simple averages shall be borne and paid by the owner of the thing that suffers the damages, or occasions the charge; but the gross or common averages shall fall upon the ship and goods at so much per livre, in proportion to their value.

IV. The loss of cables, anchors, sails, masts, and ropes, occasioned by tempest or any maritime accident, and damage, happening to the ship by the fault of the master or company, by neglecting to shut close the hatches, moor the ship, providing good tackle and ropes, or otherwise are simple averages, and shall be borne by the master, ship and freight.<sup>53</sup>

V. Damages happening to goods by their own defects, tempest, being taken, shipwrecked, or run aground; the charges paid for preserving them, and the duties, impositions, and customs, are likewise simple averages, at the cost of their owners.

VI. Things given by composition to pirates, for ransom of the ship and loading; those that are cast into the sea, masts or cables broke or cut, anchors and other effects abanded

for the common safety, damage done to goods remaining in the ship by throwing over others; the dressing and treating seamen wounded in the defence of the ship, and the charges of lightening to enter into a port or river, or to get a ship afloat, shall be gross or common averages.

VII. The maintenance and hire of the seamen of a ship detained by a sovereign prince's order, shall likewise be reputed gross averages, if the ship be hired by the month; but if by the voyage, they shall be borne by the ship only, as simple averages.

VIII. The lodemanage, towage, and pilotage for entering into, or going out of a river are petty averages, one third to be paid by the ship, and the other two by the goods.<sup>54</sup>

IX. The dues for the passport, search, declaration, anchorage, buoys, and sea marks, shall not be reputed averages, but shall be paid by the master.

X. In case of ships running aboard each other, the damage shall be equally sustained by those that have suffered and done it, whether during the course, in a road, or in a harbour.<sup>55</sup>

XI. But if the damage be occasioned by either of the masters, it shall be repaired by him.<sup>56</sup>

#### TITLE EIGHTH.

##### Of Elections and Contributions.

I. If by tempest, or being chased by enemies or pirates, the master believes himself obliged to throw overboard part of his lading, to cut or force his masts, or leave his anchors; he must take the advice of the merchants, and principal men of the ship's company.<sup>57</sup>

II. If they differ in their opinions, that of the master and ship's company shall prevail.

III. The utensils of the ship, and other things that are least necessary, heaviest, and of least value, shall be thrown overboard first, and afterwards the goods between decks: however, all must be done by the order of the captain, with the advice of the ship's company.

IV. The clerk, or such other person as performs his function, shall insert the deliberation in his book, as soon as possible; and shall cause it to be signed by those that voted, or otherwise shall mention the reason why they did not sign; and shall take as exact an account as he can of the goods thrown overboard or damnified.

V. At the first port where the ship touches, the master shall declare before the judge of the admiralty, if any be; and if none, before the ordinary judge, the reason of the ejection, or the cutting or forcing of his masts, or leaving of his anchors, and if it is in a foreign country he arrives, he shall make that declaration before the French consul.

VI. The master shall take care to make the account of the losses and damages, at the place where the ship is unloaded; and the goods cast away, and those that are preserved, shall be esteemed according to the current price thereof, at the said place.<sup>58</sup>

VII. The reparation for the payment of losses and damages, shall be made upon the goods lost and preserved, and upon the half of the ship and freight, at so much per livre, according to their value.<sup>59</sup>

VIII. The better to judge of the quality of effects thrown overboard, the bills of loading and invoices, if there be any, shall be produced.

IX. If the quality of goods be misrepresented by bills of loading, and they be found to be of greater value than they were said to be by the merchant that laded them, they shall contribute, if saved, in proportion to their real value; but if lost, shall only be paid according to the bills of loading.

X. And if on the other hand, the goods are found to be of a meaner quality, and be preserved, they shall notwithstanding contribute according to the declaration: and if they be cast away or damnified, they shall only be paid according to their value.

XI. The munitions and provisions, and seamen's clothes and wages, shall not contribute towards the ejection; but such things as are cast away shall be paid by contribution, out of the other effects.

XII. Effects for which there is no bill of loading, shall not be paid, though thrown overboard; but if they are saved, they shall nevertheless contribute.<sup>60</sup>

XIII. There shall no contribution be demanded for payments of such effects as were upon the deck, if they be thrown overboard, or damnified by the ejection; allowing the owner his recourse against the master: however, if they are preserved they shall contribute.

XIV. Nor shall any contribution be made, for damage befallen the ship, except it be done of purpose to facilitate the ejection.

XV. If the ejection does not save the ship, there shall be no contribution; and the goods that are saved from shipwreck, shall not be in any measure liable to pay the loss or damage of those that have been thrown away or spoiled.

XVI. But if the ship being once preserved by the ejection, continuing her course, comes afterwards to be lost, the effects that are preserved, shall contribute towards the ejection, according to their value, in the condition

they shall be in, charges being first deduced.

XVII. The effects cast away shall not contribute in any case, towards the payment of damages, happening after the ejection, to the goods that are preserved; nor the goods to the payment of the ship, if lost or broken.

XVIII. However, if the ship be opened by the determination of the chief men of the company, and of the merchant, if any be, to take out the goods; they shall in that case contribute for the reparation of the damage done to the ship, to take them out

XIX. In case of the loss of goods put aboard of any bark for lightening of a ship entering into any river, reparation shall be made by the whole ship and loading.

XX. But if the vessel perish, with the rest of its loading, no reparation shall be made by goods put out into barges, though they arrive safe at their port.

XXI. If the owners of any goods that ought to contribute, refuse to pay their proportion, the master may, for the security of the contribution, retain, or by the authority of justice, may sell goods, to the value of their said proportions.<sup>61</sup>

XXII. If after the reparation, the effects thrown overboard be recovered by the owners, they shall be obliged to restore to the master, and the others concerned, what they have received of the contribution, deducting for the damage caused to their goods by the ejection, and for the charges of recovering them.

TABLE OF LAND CLAIMS  
PRESENTED TO THE COMMISSION PURSUANT TO THE  
PROVISIONS OF THE ACT  
OF CONGRESS OF MARCH 3, 1851, ENTITLED "AN ACT TO ASCER  
TAIN AND SETTLE THE PRIVATE LAND CLAIMS  
IN THE STATE OF CALIFORNIA"

[Reprinted from 1 Hoff. Land Cas. Append. 1.]

NOTE. The first number is that of the Commission; the second is the number of the District Court. N. D. and S. D. stand for Northern or Southern District. Where there is a third or other numbers they correspond to the Jimeno Index, from No. 1 to No. 433, and to Hartnell's Index, a continuation of Jimeno's Index, from No. 434 to No. 579.

1, 1, N. D., 352. John C. Fremont, claimant for Las Mariposas, 10 square leagues, in Mariposa county, granted February 29th, 1844, by Manuel Micheltorena to Juan Bautista Alvarado; claim filed January 21st, 1852, confirmed by the commission December 27th, 1852, by the district court June 27th, 1854, and by the U. S. supreme court in 17 Howard [58 U. S.] 542: containing 44,386.83 acres. Patented.

2, 54, N. D. Maria de la Soledad, Ortega de Arguello et als., claimants for Las Pulgas, 4 square leagues, in San Mateo county, granted December 10th, 1835, to Luis Arguello; claim filed January 21st, 1852, confirmed by the commission October 2d, 1853, by the district court January 26th, 1855, and by the U. S. supreme court in 18 Howard [59 U. S.] 539; containing 35,240.47 acres. Patented.

3, 2, N. D., 266. Archibald Ritchie, claimant for Suisun, 4 square leagues, in Sonoma county, granted January 28th, 1842, by Juan B. Alvarado to Francisco Solano; claim filed January 21st, 1852, confirmed by the commission January 3d, 1852, by the district court November 8th, 1853, and by the U. S. supreme court in 17 Howard [58 U. S.] 525; containing 17,754.73 acres.

4, 100, N. D. Domingo and Vicente Peralta, claimants for San Antonio, in Alameda county, granted August 16th, 1820. by Don Pablo Vicente de Sola to Luis Peralta; claim filed January 21st, 1852, confirmed by the commission February 7th, 1854, by the district court January 26th, 1855, and by the U. S. supreme court in 19 Howard [60 U. S.] 343; containing 19,143.86 acres.

5, 297, N. D. Thomas Jefferson Smith, claimant for 200 varas, Mission Dolores, in San Francisco county, granted July 26th, 1843, by Juan B. Alvarado to Domingo Feliz; claim filed January 21st, 1852, rejected by the commission March 20th, 1855, and for failure of prosecution appeal dismissed April 21st, 1856.

6, 416, N. D., 250. Boland Gelston, claimant for New Helvetia, 11 square leagues, in Yuba and Sutter counties, granted June 18th, 1841, by Juan B. Alvarado to John A.

Sutter; claim filed January 21st, 1852, confirmed by the commission January 26th, 1856, and by the district court November 25th, 1859. See No. 92.

7, 174, N. D., 286. Bernard Murphy, claimant for Las Uvas, 3 square leagues, in Santa Clara county, granted, June 14th, 1842, by Juan B. Alvarado to Lorenzo Pineda; claim filed January 22d, 1852, confirmed by the commission September 19th, 1854, and by the district court January 14th, 1856; containing 11,079.93 acres.

8, 77, N. D., 353. Robert F. Stockton, claimant for Potrero de Santa Clara, 1 square league, in Santa Clara county, granted February 29th, 1844, by Manuel Micheltorena to James Alexander Forbes; claim filed January 24th, 1852, confirmed by the commission November 15th, 1853, and by the district court October 29th, 1855; containing 1,939.03 acres.

9, 13, S. D., 25. William G. Dana, claimant for Nipoma, 15 square leagues, in Santa Barbara county, granted April 6th, 1837, by Juan B. Alvarado to Guillermo Dana; claim filed January 26th, 1852, confirmed by the commission March 1st, 1853, and dismissed December 20th, 1856; containing 32,728.62 acres.

10, 214, N. D. Emilius Voss, claimant for Las Mariposas, 11 square leagues in Mariposa county, granted September 19th, 1843, by Manuel Micheltorena to Manuel Castañares; claim filed January 26th, 1852, rejected by the commission November 21st, 1854, and for failure of prosecution appeal dismissed April 21st, 1856.

11, 299, N. D. Joel S. Polack, claimant for Island of Yerba Buena, in Bay of San Francisco, granted November 8th, 1838, by Juan P. Alvarado to Juan José Castro; claim filed January 27th, 1852, confirmed by the commission May 22d, 1855, and rejected by the district court March 17th, 1858.

12, 13, N. D., 462. Archibald A. Ritchie, claimant for Guenoc, 6 square leagues, in Sonoma county, granted May 8th, 1845, by Pio Pico to George Rock; claim filed January 27th, 1852, confirmed by the commission December 18th, 1852, and appeal dismissed December 15th, 1856; containing 21,220.03 acres.

13, 10, S. D., 147. José de la Guerra y Noriega, claimant for San Julian, 6 square leagues, in Santa Barbara county, granted April 7th, 1837, by Juan B. Alvarado to George Rock; claim filed January 28th, 1852, confirmed by

the commission February 21st, 1853, by the district court December 17th, 1856, and appeal dismissed February 24th, 1859; containing 48,221.68 acres.

14, 31, N. D., 35. Elam Brown, claimant for Acalanes, 1 square league, in Contra Costa county, granted August 1st, 1834, by José Figueroa to Candelario Valencia; claim filed February 2d, 1852, confirmed by the commission February 14th, 1853, and appeal dismissed November 26th, 1856; containing 3,328.95 acres. Patented.

15, 15, S. D., 171. Joaquin and José A. Carrillo, claimants for Lompoc, in Santa Barbara county, granted April 15th, 1837, by Juan B. Alvarado to Joaquin and José A. Carrillo; claim filed February 2d, 1852, confirmed by the commission April 11th, 1853, and appeal dismissed February 24th, 1857; containing 38,335.78 acres.

16, 52, N. D., 254, 411. Josefa Carrillo Fitch et al., claimants for Sotoyomé, 8 square leagues, in Sonoma and Mendocino counties, granted September 28th, 1841, by Manuel Micheltorena to Henry D. Fitch; claim filed February 2d, 1852, confirmed by the commission April 18th, 1853, and appeal dismissed November 17th, 1857; containing 48,836.51 acres.

17, 6, N. D., 494. José de Jesus Noé, claimant for San Miguel, 1 square league, in San Francisco county, granted December 23d, 1845, by Pio Pico to José de Jesus Noé; claim filed February 2d, 1852, confirmed by the commission December 18th, 1852, and appeal dismissed October 23d, 1856; containing 4,443.38 acres.

18, 208, N. D. Antonio Maria Osio, claimant for Island of Los Angeles, in San Francisco county, granted June 11th, 1839, by Juan B. Alvarado to Antonio Maria Osio; claim filed February 2d, 1852, confirmed by the commission October 24th, 1854, by the district court September 10th, 1855, and decree reversed by the U. S. supreme court and cause remanded, with directions to dismiss the petition, 23 Howard [64 U. S.] 273.

19, 44, N. D. Antonio Cazares, claimant for Canada de Pogolomé, 2 square leagues, in Marin county, granted February 12th, 1844, by Manuel Micheltorena to Antonio Cazares; claim filed February 3d, 1852, confirmed by the commission April 11th, 1853, by the district court March 24th, 1856, and appeal dismissed December 8th, 1856; containing 8,780.81 acres. Patented.

20, 102, S. D., 82. Juan Miguel Anzar, claimant for Los Aromitas y Agua Caliente, 3 square leagues, in Monterey county, granted October 12th, 1835, by José Castro to Juan Miguel Anzar; claim filed February 3d, 1852, confirmed by the commission January 10th, 1853, by the district court December 10th, 1856, and appeal dismissed February 21st, 1857; containing 8,659.69 acres.

21, 75, N. D., 220. Maria Luisa Greer et al., claimants for Canada de Baymundo, two and a half by three-quarter leagues, in San Mateo county, granted August 3d, 1840, by Juan B. Alvarado to John Coppinger; claim filed February 3d, 1852, confirmed by the



commission November 29th, 1853, by the district court January 14th, 1856, and appeal dismissed November 11th, 1856; containing 12,545.01 acres. Patented.

22, 258. S. D., 127. Juan Miguel Anzar and Manuel Larios, claimants for Santa Ana, 1 square league, and Quien Sabe, 6 square leagues, in Santa Clara county, granted April 9th, 1839, by Juan B. Alvarado to Manuel Larios and Juan Anzar; claim filed February 6th, 1852, confirmed by the commission November 7th, 1854, by the district court December 11th, 1856, and appeal dismissed June 4th, 1857; 48,822.60 acres. Patented.

23, 35, N. D., 308. Stephen Smith and Manuela T. Curtis, claimants for Bodega, 8 square leagues, in Sonoma county, granted September 14th, 1844, by Manuel Micheltorena to Stephen Smith; claim filed February 9th, 1852, confirmed by the commission February 21st, 1853, by the district court July 5th, 1855, and appeal dismissed April 2d, 1857; containing 35,487.53 acres. Patented.

24, 224, N. D., 280. Stephen Smith, claimant for Blucher, 6 square leagues, in Sonoma county, granted October 14th, 1844, by Manuel Micheltorena to Juan Vioget; claim filed February 9th, 1852, confirmed by the commission October 31st, 1854, by the district court January 26th, 1857, and appeal dismissed April 2d, 1857; containing 26,759.42 acres. Patented.

25, 147, N. D., 19. Daniel and Bernard Murphy and James and Martin Murphy, claimants for San Francisco de Las Llagas, 6 square leagues, in Santa Clara county, granted February 3d, 1834, by José Figueroa to Carlos Castro; claim filed February 9th, 1852, confirmed by the commission August 22d, 1854, by the district court October 22d, 1855, and appeal dismissed November 24th, 1856; containing 22,979.66 acres.

26, 162, N. D. Dolores Riesgo Armijo et al., heirs of José F. Armijo, claimants for Las Tolenas. 3 square leagues, in Solano county, granted March 10th, 1840, by Juan B. Alvarado to José Francisco Armijo; claim filed February 9th, 1852, rejected by the commission August 8th, 1854, and appeal dismissed November 24th, 1856; containing 13,315.93 acres.

27, 18, N. D., 243. José Rafael Gonzalez and Mariana Gonzalez, claimants for San Miguelito de Trinidad, 5 square leagues, in Monterey county, granted July 24th, 1841, by Juan B. Alvarado to José Rafael Gonzalez; claim filed February 9th, 1852, confirmed by the commission March 1st, 1853, by the district court September 24th, 1855, and appeal dismissed February 17th, 1857; containing 22,135.89 acres.

28, 4, N. D. Pearson B. Reading, claimant for San Buenaventura, 6 square leagues, in Sacramento county, granted December 4th, 1844, by Manuel Micheltorena to P. B. Reading; claim filed February 9th, 1852, confirmed by the commission December 18th, 1852, by the district court October 31st, 1853, and by the U. S. supreme court in 18 Howard [59 U. S.] 1; containing 26,632.09 acres. Patented.

29, 391, N. D. Thomas Dorland, claimant for 200 square yards, in San Francisco county, (Mission Dolores) granted by Mariano Castro to Tori Rio Fanfaran; claim filed February 9th, 1852, rejected by the commission September 25th, 1855, and for failure of prosecution appeal dismissed March 30th, 1857.

30, 5, N. D., 177. Carmen Sibrian de Bernal and José Cornelio Bernal, claimants for Rincon de las Salinas y Potrero Nuevo, 1 square league, in San Francisco county, granted October 10th, 1839, by Manuel Jimeno to José Cornelio de Bernal; claim filed February 9th, 1852, confirmed by the commission December 18th, 1852, by the district court August 20th, 1855, and appeal dismissed December 8th, 1856; containing 4,446.40 acres. Patented.

31, 177, S. D., 14, 145. Isabel Yorba, claimant for Guadaluca, in Santa Barbara county, granted May 6th, 1846, by Mariano Chico to Isabel Yorba; claim filed February 9th, 1852, rejected by the commission April 25th, 1854, confirmed by the district court March 3d, 1856, and appeal dismissed. December 8th, 1856; containing 30,593.85 acres.

32, 94, N. D., 169. Juan Wilson, claimant for Guilicos, 4 square leagues, in Sonoma county, granted November 20th, 1847, by Juan B. Alvarado to John Wilson; claim filed February

10th, 1852, confirmed by the commission December 27th, 1853, by the district court March 3d, 1856, and appeal dismissed December 8th, 1856; containing 18,833.86 acres.

33, 353, N. D. Eustaquio and José Ramon Valencia, claimants for 200 varas square, Mission Dolores, in San Francisco county, granted July 18th, 1845, by Mariano Castro to Eustaquio and José Ramon Valencia; claim filed February 11th, 1852, and rejected by the commission July 3d, 1855.

34, 389, N. D. Candelario Valencia, claimant for 50 varas square, Mission Dolores, in San Francisco county, granted November 18th, 1840, by Juan B. Alvarado; claim filed February 11th, 1852, confirmed by the commission August 14th, 1855, by the district court December 28th, 1857, and appeal dismissed December 28th, 1857.

Candelario Valencia, claimant for 100 varas square, Mission Dolores, in San Francisco county, granted May 18th, 1841, by Juan B. Alvarado.

35, 57, N. D., 347. Sebastian Nunez, claimant for Orestimba, 6 square leagues, in Tuolumne county, granted February 21st, 1844, by Manuel Micheltoarena to Sebastian Nunez; claim filed February 12th, 1852, rejected by the commission October 25th, 1853, confirmed by the district court May 4th, 1857, and appeal dismissed September 3d, 1858; containing 26,641.17 acres.

36, 36, N. D., 6. Maximo Martinez, claimant for EI Corte de Madera, 2 square leagues, in Santa Clara county, granted May 1st, 1844, by Manuel Micheltoarena to Maximo Martinez; claim filed February 12th, 1852, confirmed by the commission February 28th, 1853, by the district court September 10th, 1855, and appeal dismissed April 2d, 1857; containing 13,316.05 acres. Patented.

37, 62, N. D., 315. Juan Perez Pacheco, claimant for San Luis Gonzaga, in Mariposa county, granted December 3d, 1843, by Manuel Micheltoarena to Francisco Rivera; claim filed February 12th, 1852, rejected by the commission October 18th, 1853, confirmed by the district court April 21st, 1856, and appeal dismissed September 3d, 1858; containing 48,821.43 acres.

38, 103, S. D., 371. José de la Guerra y Noriega, claimant for San José de Gracia or Simi, in Santa Barbara county, granted 1795, by Borica to Patricio Javier y Miguel Pico, and revalidated by J. B. Alvarado April 25th, 1842; claim filed February 12th, 1852, confirmed by the commission March 14th, 1854, and appeal dismissed December 20th, 1856; containing 92,341.38 acres.

39, 11, S. D. Victor Linares, claimant for 1,000 varas square, in San Luis Obispo county, granted September 18th, 1842, by Juan B. Alvarado to Victor Linares; claim filed February 12th, 1852, confirmed by the commission March 14th, 1853, by the district court January 14th, 1857, and appeal dismissed June 3d, 1859; containing 165.76 acres.

40, 14, N. D., 383. Arch. A. Ritchie and Paul S. Forbes, claimants for Callayomi, 3 square leagues, in Sonoma county, granted January 17th, 1845, by Manuel Micheltoarena

to Robert F. Ridley; claim filed February 12th, 1852, confirmed by the commission December 22d, 1852, and appeal dismissed December 8th, 1856; containing 8,241.74 acres.

41, 14, S. D., 144. Ramona Carrillo de Wilson, claimant for 5 square leagues, granted April 6th, 1837, by Juan B. Alvarado to Ramona Carrillo; claim filed February 12th, 1852, confirmed by the commission April 11th, 1853, and by the district court January 8th, 1857.

42, 345, N. D. James and Squire Williams, claimants for 1 square league, granted June 12th, 1840, by Juan B. Alvarado to Gil Sanchez; claim filed February 17th, 1852, confirmed by the commission July 10th, 1855, and appeal dismissed December 24th, 1856.

43, 95, N. D., 488. Manuel Torres, claimant for Muniz, 4 square leagues, in Mendocino county, granted December 4th, 1845, by Pio Pico to Manuel Torres; claim filed February 17th, 1852, confirmed by the commission December 27th, 1853, by the district court October 17th, 1855, and appeal dismissed May 7th, 1857; containing 17,760.75 acres. Patented.

44, 61, N. D., 483. Bartolomé Bojorquez, claimant for Laguna de San Antonio, 6 square leagues, in Marin county, granted November 5th, 1845, by Pio Pico to B. Bojorquez; claim filed February 17th, 1852, confirmed by the commission October 12th, 1853, by the district court September 10th, 1855, and appeal dismissed November 24th, 1856; containing 24,903.42 acres.

45, 397. Thomas B. Valentine, claimant for Arroyo de San Antonio, 3 square leagues, in Marin county, granted October 8th, 1844, by Manuel Micheltoarena to Juan Miranda; claim filed February 17th, 1852, and discontinued February 6th, 1855.

46. Thomas Jefferson Smith, claimant for 200 varas, Mission Dolores, in San Francisco county, granted August 20th, 1842, to Domingo Feliz; claim filed February 17th, 1852; included in No. 5.

47, 211, S. D. Francisco Perez Pacheco, claimant for San Justo, 4 square leagues, in Monterey county, granted April 15th, 1839, by Juan B. Alvarado to José Castro; claim filed February 17th, 1852, confirmed by the commission September 26th, 1854, by the district court June 3d, 1857, and appeal dismissed June 8th, 1857; containing 33,689.99 acres.

48, 24, S. D. Francisco Branch, claimant for Santa Manuela, in San Luis Obispo county, granted April 6th, 1837, by Juan B. Alvarado to Francisco Branch; claim filed February 17th, 1852, confirmed by the commission March 1st, 1853, by the district court October 16th, 1855, and appeal dismissed February 24th, 1857; containing 16,954.83 acres.

49, 32, S. D., 100. Carlos Antonio Carrillo, claimant for Sespé, 6 square leagues, in Santa Barbara county, granted November 9th, 1833, by José Figueroa to C. A. Carrillo; claim filed February 17th, 1852, confirmed by the commission April 18th, 1853, and by the district court February 19th, 1856.

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50, 261, S. D. John Wilson, claimant for Huerta de Romaldo, one-tenth square league, in San Luis Obispo county, granted 1842 by J. B. Alvarado. and July 10th, 1846, by Pio Pico, to Romaldo; claim filed February 17th, 1852, rejected by the commission December 12th, 1854, and confirmed by the district court February 9th, 1857.

51, 53, S. D., 553. Fernando Tico, claimant for 400 varas, Mission of San Buenaventura, in Santa Barbara county, granted March 24th, 1845, by Pio Pico to F. Tico; claim filed February 17th, 1852, confirmed by the commission November 23d, 1853, by the district court January 7th, 1856, and appeal dismissed February 5th, 1857; containing 28.90 acres.

52, 159, N. D. Bernard Murphy, claimant for La Polka, 1 square league, in Santa Clara county, granted January 19th, 1833, by José Figueroa to Ysabel Ortega; claim filed February 17th, 1852, confirmed by the commission August 15th, 1854, by the district court January 14th, 1856, and appeal dismissed January 18th, 1856; containing 4,166.78 acres.

53, 148, N. D., 361. Domingo Feliz, claimant for Feliz Rancho, 1 square league, in San Mateo county, granted May 1st, 1844, by Manuel Micheltorena to D. Feliz; claim filed February 17th, 1852, confirmed by the commission January 27th, 1854, by the district court October 29th, 1855, and appeal dismissed November 18th, 1856; containing 4,448.27 acres.

54, 4, S. D., 94. David S. Spence, claimant for Encinal y Buena Esperanza, 2 square leagues, in Monterey county, granted November 29th, 1834, by José Figueroa to D. S. Spence; 1 square league additional, in Monterey county, granted April 15th, 1839, by Juan B. Alvarado; claims filed February 19th, 1852, confirmed by the commission February 14th, 1853, by the district court December 19th, 1855, and appeal dismissed February 23d, 1857; containing 13,351.64 acres.

55, 370, S. D. Francisco Castillo Negrete, claimant for Quien Sabe, 6 square leagues, in San Joaquin county, granted April 16th, 1836, by Nicolas Gutierrez to F. C. Negrete; claim filed February 20th, 1852, and rejected by the commission September 11th, 1855.

56, 178, S. D., 156. Cruz Cervantes, claimant for San Joaquin or Rosas Morada, 2 square leagues, in Monterey county, granted April 1st, 1836, by Nicolas Gutierrez to C. Cervantes; claim filed February 20th, 1852, confirmed by the commission December 18th, 1852, by the district court September 21st, 1855, and judgment affirmed by the U. S. supreme court in 18 Howard [59 U. S.] 553.

57, 74, N. D., 465. Juan Manuel Vaca and Juan Felipe Peña, claimants for Los Putos, 10 square leagues, in Solano county, granted January 27th, 1843, by Manuel Micheltorena to J. M. Vaca and J. F. Peña; claim filed February 20th, 1852, rejected by the commission November 15th, 1853, confirmed by the district court July 5th, 1855, and decree affirmed by the U. S. supreme court in 18 Howard [59 U. S.] 556; containing 44,383.78 acres. Patented.

58, 161, N. D. José de los Santos Berreyesa, claimant for Seño de Mallacomes or Moristal y Plan de Agua Caliente. 4 square leagues, in Sonoma county, granted October 14th, 1843, by Manuel Micheltorena to J. de los Santos Berreyesa; claim filed February 20th, 1852, confirmed by the commission June 27th, 1854, by the district court December 24th, 1856, and appeal dismissed November 24th, 1856; containing 12,540.22 acres.

59, 150, N. D. Lovett P. Rockwell and Thomas P. Knight, claimants for portion of Mallacomes or Moristal, No. 58, 2 square leagues, in Sonoma county, granted October 14th, 1843, by Manuel Micheltorena to José de los Santos Berreyesa; claim filed February 20th, 1852, confirmed by the commission August 29th, 1854, and appeal dismissed November 24th, 1856: containing 8,328.85 acres.

60, 155, N. D., 128. José Dolores Pacheco, claimant for Santa Rita, in Alameda county, granted April 10th, 1839, by Juan B. Alvarado to J. D. Pacheco; claim filed February 21st, 1852, rejected by the commission April 25th, 1854, confirmed by the district court

August 13th, 1855, and decree affirmed by the U. S. supreme court in 23 Howard [64 U. S.] 495; containing 8,885.67 acres.

61, 8, S. D., 290. Rafael Vilavicencio, claimant for San Geronimo, 2 square leagues, in San Luis Obispo county, granted July 24th, 1842, by Juan B. Alvarado to R. Vilavicencio; claim filed February 21st, 1852, confirmed by the commission February 14th, 1853, and by the district court October 14th, 1859.

62, 9, N. D., 143. Antonio and Faustin German, claimants for Juristac, 1 square league, in Santa Clara county, granted October 22d, 1835, to A. and F. German; claim filed February 21st 1852, confirmed by the commission December 18th, 1852, by the district court June 7th. 1855, and appeal dismissed April 28th, 1857; containing 4,482.41 acres.

63, 79, S. D., 149. Francisco Perez Pacheco, claimant for 2 square leagues, in Monterey county, granted November 26th, 1833, by José Figueroa to F. P. Pacheco; by another grant, claimant for Ausaymas, 2 square leagues, in Tuolumne county, granted February 6th, 1836, by Nicolas Gutierrez; claims filed February 24th, 1852, confirmed by the commission July 5th, 1853, and by the district court October 10th, 1855; containing 35,504.34 acres. Patented.

64, 78, S. D. Francisco Perez Pacheco, claimant for San Felipe, 3 square leagues, in Monterey county, granted April 1st, 1836, by Nicolas Gutierrez to F. D. Pacheco; claim filed February 24th, 1852, confirmed by the commission July 8th; 1853, and by the district court October 11th, 1855. Surveyed with No. 63 and patented.

65, 77, S. D., 212. Francisco Perez Pacheco, claimant for Bolsa de San Felipe, 2 square leagues, in Monterey county, granted October 14th, 1840, by Juan B. Alvarado to F. D. Pacheco; claim filed February 14th, 1852, confirmed by the commission December 29th, 1852, by the district court February 19th, 1857, and January 11th, 1861, and appeal dismissed March 4th, 1858.

66, 39, S. D., 122. Diego Olivera and Teodoro Arellanes, claimants for Guadalupe, described by boundaries, in San Luis Obispo county, granted March 21st, 1840, by Juan B. Alvarado to D. Olivera and T. Arellanes; claim filed February 24th, 1852, confirmed by the commission December 6th, 1853, by the district court September 25th, 1855, and appeal dismissed February 5th, 1857; containing 32,408.03 acres.

67, 365, S. D., 523. Maria Antonio de la Guerra and Lataillade, claimants for Cuyama, 5 square leagues, in Santa Barbara county, granted April 24th, 1843, by Manuel Micheltorena to José Maria Rojo; claim filed February 24th, 1852, confirmed by the commission July 17th, 1855, by the district court January 20th, 1857, and appeal dismissed March 4th, 1858; containing 22,198.74 acres.

68, 223, N. D., 188. Assignee of Bezer Simmons, claimant for Novato, 2 square leagues, in Marin county, granted April 16th, 1839, by Juan B. Alvarado to Fernando

Feliz; claim filed February 24th, 1852, confirmed by the commission November 7th, 1854, and appeal dismissed December 16th, 1856; containing 8,870.62 acres.

69, 30, N. D., 484. David Wright, claimant for Roblar de la Miseria, 4 square leagues, in Sonoma county, granted November 21st, 1845, by Pio Pico to Juan Nepomaseno Padillo; claim filed February 24th, 1852, confirmed by the commission February 14th, 1853, by the district court September 10th, 1855, and appeal dismissed December 8th, 1856; containing 16,887.45 acres. Patented.

70, 411, N. D. Edmund L. Brown et al., claimants for Laguna de Santos Calle, 11 square leagues, in Yolo county, granted December 29th, 1845, by Pio Pico to Victor Prudon and Marcos Baca; claim filed February 24th, 1852, rejected by the commission January 15th, 1856, and by the district court September 18th, 1860.

71, 10, N. D., 320. Camilo Ynitia, claimant for Olompali, 2 square leagues, in Marin county, granted October 22d, 1843, by Manuel Micheltoarena to C. Ynitia; claim filed February 26th, 1852, confirmed by the commission December 18th, 1852, by the district court February



23d, 1857, and appeal dismissed July 31st, 1857; containing 8,877.43 acres.

72, 16, N. D., 346. Timoteo Murphy, claimant for San Pedro, Santa Margarita and Las Gallinas, 5 square leagues, in Marin county, granted February 14th, 1844, by Manuel Micheltorena to T. Murphy; claim filed February 26th, 1852, confirmed by the commission December 22d, 1852, and appeal dismissed November 18th, 1856; containing 21,678.69 acres.

73, 202, N. D. Julian and Fernando, sons of Santos, a neophite, claimants for Rincon del Alisal, 600 varas, in Santa Clara county, granted December 28th, 1844, by José Maria del Ray (priest) to Santos and Sons; claim filed February 27th, 1852, rejected by the commission November 21st, 1854, and for failure of prosecution appeal dismissed by the district court April 21st, 1856.

74, 421, N. D. Jacob Leese and Salvador Vallejo, claimants for 200 by 100 varas, in city of San Francisco, granted May 21st, 1839, by Juan B. Alvarado to Jacob Leese and S. Vallejo; claim filed February 27th, 1852, confirmed by the commission February 5th, 1856, and appeal dismissed April 6th, 1857; containing 3.38 acres. Patented.

75, 7, N. D., 364. José Agustin Narvaez, claimant for San Juan Bautista, 2 square leagues, in Monterey county, granted March 30th, 1844, by Manuel Micheltorena to J. A. Narvaez; claim filed February 27th, 1852, rejected by the commission November 15th, 1853, confirmed by the district court July 15th, 1855, and appeal dismissed July 5th, 1855; containing 8,877.60 acres.

76, 20, N. D., 64. Salvio Pacheco, claimant, for Monte del Diablo, in Contra Costa county, granted March 30th, 1844, by José Figueroa to S. Pacheco; claim filed February 27th, 1852, confirmed by the commission January 5th, 1853, by the district court January 14th, 1856, and appeal dismissed November 24th, 1856; containing 17,921.54 acres. Patented.

77, 135, N. D., 129. José Noriega and Roberto Livermore, claimants for Las Positas, 2 square leagues, in Alameda county, granted April 10th, 1839, by Juan B. Alvarado to Salvio Pacheco; claim filed February 27th, 1852, confirmed by the commission February 14th, 1854, and by the district court February 18th, 1859.

78, 133, N. D., 125. Fulgencio Higuera, claimant for Agua Caliente, 2 square leagues, in Alameda county, granted October 13th, 1836, by Nicolas Gutierrez, and April 4th, 1839, by Juan B. Alvarado, to F. Higuera; claim filed February 27th, 1852, confirmed by the commission February 14th, 1854, and appeal dismissed November 24th, 1856; containing 9,563.87 acres. Patented.

79, 386, N. D., 431. Robert Livermore, claimant for Cañada de los Vaqueros, in Contra Costa county, granted February 29th, 1844, by Manuel Micheltorena to Francisco Alvisu et al.; claim filed February 27th, 1852, confirmed by the commission September 4th,

1855, by the district court December 28th, 1857, and appeal dismissed December 28th, 1857.

80, 210, N. D. Timothy Murphy, in behalf of the San Rafael tribe of Indians, claimant for Tinicasia, 1 square league, in Marin county, granted in 1841, by M. G. Vallejo to San Rafael tribe of Indians; claim filed February 28th, 1852, rejected by the commission November 21st, 1854, and for failure of prosecution appeal dismissed April 21st, 1856.

81, 338, N. D. James E. Bolton, claimant for Mission Dolores, 3 square leagues, in San Francisco county, granted February 10th, 1846, by Pio Pico to José Prudencio Santillan; claim filed March 1st, 1852, confirmed by the commission January 5th, 1855, pro forma by the district court April 7th, 1857, and decrees reversed by the U. S. supreme court and cause remanded, with direction to dismiss the claim, 23 Howard [64 U. S.] 341.

82, 60, N. D., 318. José de Jesus Vallejo, claimant for Arroyo del Alameda, 4 square leagues, in Alameda county, granted August 30th, 1842, by Juan B. Alvarado to J. de Jesus Vallejo; claim filed March 2d, 1852, confirmed by the commission October 18th, 1853, by the district court March 2d, 1857, and appeal dismissed July 28th, 1857; containing 17,705.3S acres. Patented.

83, 59, N. D., 216, 318. José de Jesus Vallejo, claimant for Arroyo del Alameda, 1,000 varas square, in Santa Clara county, granted December 30th, 1840, by Manuel Jimeno to J. de Jesus Vallejo; claim filed March 2d, 1852, and rejected by the commission October 18th, 1853.

84, 65, N. D., 167. Domingo Sais, claimant for Cañada de Herrera, one-half square league, in Marin county, granted August 10th, 1839, by Manuel Jimeno to D. Sais; claim filed March 2d, 1852, confirmed by the commission October 21st, 1853, by the district court May 25th, 1858, and appeal dismissed May 25th, 1858; containing 6,658.35 acres.

85, 35, S. D. José de Jesus Vallejo, claimant for Bolsa de San Cayetano, 2 square leagues, in Monterey county, granted October 25th, 1824, by Arguello, and October 13th, 1834, by José Figueroa, to Ignacio Vallejo; claim filed March 2d, 1852, confirmed by the commission December 6th, 1853, by the district court February 1st, 1856, and appeal dismissed January 9th, 1857; containing 8,866.43 acres.

86, 48, N. D., 501. Jasper O'Farrell, claimant for Cañada de la Jonive, 2 square leagues, in Sonoma county, granted February 5th, 1845, by Pio Pico to James Black; claim filed March 2d, 1852, confirmed by the commission April 18th, 1853, by the district court July 16th, 1855, and appeal dismissed December 22d, 1856; containing 10,786.51 acres. Patented.

87, 196, S. D., 282, 506. Francis Branch, claimant for Huerhuero or Huerfano, 1 square league, in San Luis Obispo county, granted May 9th, 1842, by Juan B. Alvarado, and March 28th, 1846, by Pio Pico, to Mariano Bonilla; claim filed March 2d, 1852, con-

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firmed by the commission September 12th, 1854, by the district court December 31st, 1855, and appeal dismissed February 24th, 1857; containing 15,684.95 acres.

88, 64, S. D., 451. Antonio Maria Villa, claimant for Tequepis, 2 square leagues, in Santa Barbara county, granted May 24th, 1845, by Pio Pico to Joaquin Villa; claim filed March 2d, 1852, rejected by the commission November 13th, 1853, confirmed by the district court January 14th, 1856, and appeal dismissed February 5th, 1857; containing 8,919 acres.

89, 166, N. D., 550. James G. Morehead, claimant for Carmel, 10 square leagues, granted May 4th, 1846, by Pio Pico to William Knight; claim filed March 2d, 1852, rejected by the commission February 21st, 1854, confirmed by the district court September 29th, 1859, and appeal dismissed October 26th, 1859.

90, 84, N. D.; 265. Martin Murphy, claimant for Pastoria de las Borregas, 3,207 $\frac{1}{4}$  acres, in Santa Clara county, granted January 15th, 1842, by Juan B. Alvarado to Francisco Estrada; claim filed March 3d, 1852, confirmed by the commission January 24th, 1854, by the district court October 17th, 1856, and appeal dismissed November 18th, 1856; containing 4,894.35 acres.

91, 397, N. D. William Johnson, claimant for Johnson's Rancho, 5 square leagues, in Yuba county, granted December 22d, 1844, by

Manuel Micheltorena and J.A. Sutter to Pablo Gutierrez; claim filed March 3d, 1852, confirmed by the commission August 7th, 1855, and appeal dismissed November 18th, 1850; containing 22,197.31 acres. Patented.

92, 319, N. D., 250. John A. Sutter, claimant for New Helvetia, 11 square leagues, and a surplus of 22 square leagues, in Yuba and Sutter counties, granted June 18th, 1841, by Juan B. Alvarado, and February 25th, 1845, by Manuel Micheltorena, to J. A. Sutter; claim filed March 8th, 1852, confirmed by the commission May 15th, 1855, by the district court January 14th, 1857, grant of June 18th, 1841, confirmed by the U. S. supreme court, and that of February 5th, 1845, rejected, 21 Howard [62 U. S.] 170; containing 48,827.90 acres.

93, 213, N. D., 92. Antonio Chaboya, claimant for Yerba Buena or Socayre, in Santa Clara county, granted November 5th, 1833, by José Figueroa to A. Chaboya; claim filed March 8th, 1852, confirmed by the commission October 17th, 1854, by the district court January 21st, 1858, and appeal dismissed October 8th, 1858; containing 24,342.64 acres. Patented.

94, 262, N. D., 552. Abel Stearns, claimant for 600 varas square, in San Francisco county, granted May 6th, 1846, by Pio Pico to José Andrada; claim filed March 9th, 1852, and rejected by the commission January 25th, 1855.

95, 379, N. D.; 19 S. D., (transcript sent to N. D.) 29. Bernard Murphy, claimant for Ojo de Agua de la Coché, 2 square leagues, in Santa Clara county, granted August 4th, 1835, by José Figueroa to Juan Maria Hernandez; claim filed March 9th, 1852, confirmed by the commission February 21st, 1853, by the district court January 18th, 1856, and appeal dismissed November 18th, 1856; containing 8,927.10 acres.

96, 403, N. D. Juan José Castro, claimant for El Sobrante, 11 square leagues, in Alameda county, granted April 23d, 1841, by Juan B. Alvarado to J. J. Castro; claim filed March 9th, 1852, confirmed by the commission July 3d, 1855, and appeal dismissed April 6th, 1857.

97, 101, N. D., 20. José de la Cruz Sanchez et al., claimant for Buri-Buri, in San Mateo county, granted September 18th, 1835, by José Castro to José Sanchez; claim filed March 9th, 1852, confirmed by the commission January 31st, 1854, by the district court October 16th, 1855, and appeal dismissed May 11th, 1858; containing 15,739.14 acres.

98, 71, S. D., 342. Ellen E. White, claimant for Cholam, 6 square leagues, in San Luis Obispo county, granted February 7th, 1844, by Manuel Micheltorena to Mauricio Gonzalez; claim filed March 12th, 1852, rejected by the commission January 17th, 1854, confirmed by the district court March 4th, 1858, and appeal dismissed December 31st, 1860; containing 26,627.16 acres.

99, 375, S. D. Ellen E. White and John Carney, claimants for San Justo el Viejo and San Bernabé, 6 square leagues, in Monterey county, granted February 18th, 1836, by Ni-

colas Gutierrez to Rafael Gonzalez; claim filed March 12th, 1852, rejected by the commission August 28th, 1855, and for failure of prosecution appeal dismissed December 22d, 1856.

100, 219, N. D. Francisco Rufino, claimant for preëmption claim, 50 by 180 feet, Mission Dolores, in San Francisco county; claim filed March 13th, 1852, rejected by the commission November 21st, 1854, and for failure of prosecution appeal dismissed April 21st, 1856.

101, 381, N. D., 360. Josefa de Haro et al., claimants for Potrero de San Francisco, one-half square league, in San Francisco county, granted April 30th, 1844, and May 1st, 1844, by Manuel Micheltoarena to Ramon Francisco de Haro; claim filed March 16th, 1852, and confirmed by the commission November 6th, 1855.

102, 380, N. D., 10. Josefa de Haro et al., claimants for Laguna de la Merced, 1 by one-half league, in San Mateo county, granted September 27th, 1835, by José Castro to José Antonio Galindo; claim filed March 16th, 1852, confirmed by the commission July 24th, 1855, by the district court January 13th, 1858, and appeal dismissed March 19th, 1858; containing 2,220.16 acres.

103, 408, N. D. Guillermo Antonio Richardson, claimant for 10 by 2 leagues, in Mendocino county, granted October 30th, 1844, by Manuel Micheltoarena to José Antonio Galindo; claim filed March 16th, 1852, and confirmed by the commission November 6th, 1855.

104, 83, N. D., 111. Guillermo Antonio Richardson, claimant for Saucelito, 3 square leagues, in Marin county, granted February 11th, 1835, by Juan B. Alvarado, to José Antonio Galindo; claim filed March 16th, 1852, confirmed by the commission December 27th, 1853, by the district court February 11th, 1856, and appeal dismissed September 2d, 1857; containing 19,571.92 acres.

105, 281, N. D. Timoteo Murphy, claimant for 100 by 30 varas, in Marin county, granted December 16th, 1844, by Manuel Micheltoarena to T. Murphy; claim filed March 16th, 1852, and rejected by the commission August 22d, 1854, and March 27th, 1855.

106, 91, N. D., 405. Alberto J. Toomes, claimant for El Rio de los Molinos, 5 square leagues, in Tehama county, granted December 20th, 1844, by Manuel Micheltoarena to A. J. Toomes; claim filed March 18th, 1852, confirmed by the commission January 17th, 1854, by the district court March 3d, 1856, and appeal dismissed November 6th, 1856; containing 22,172.46 acres. Patented.

107, 85, N. D., 404. Robert H. Thomes, claimant for Los Sancos, 5 square leagues, in Tehama county, granted December 20th, 1844, by Manuel Micheltoarena to R. H. Thomes; claim filed March 18th, 1852, confirmed by the commission January 17th, 1854, by the district court February 4th, 1856, and appeal dismissed November 6th, 1856; containing 22,212.21 acres.

108, 323, N. D. Jacob D. Hoppe, claimant for Ulistac, one-half square league, in Santa Clara county, granted May 19th, 1845, by Pio Pico to Marcelo Pio and Cristoval; claim filed March 19th, 1852, confirmed by the commission May 8th, 1855, by the district court March 2d, 1857, and appeal dismissed April 16th, 1857; containing 2,401.32 acres.

109, 377, N. D. Dionisio Z. Fernandez et al., claimants for 4 square leagues, in Butte county, granted June 12th, 1846, by Pio Pico to Dionisio and Maximo Fernandez; claim filed March 19th, 1852, confirmed by the commission July 17th, 1855, by the district court March 2d, 1857, and appeal dismissed March 9th, 1857; containing 17,805.84 acres.

110, 407, N. D. Andres Pico et al., claimants for Mission San José, 30,000 acres, in Alameda county, granted May 5th, 1846, by Pio Pico to Andres Pico and Juan B. Alvarado; claim filed March 22d, 1852, confirmed by the commission December 18th, 1855, and rejected by the district court June 30th, 1859.

111, 310, S. D., 442. James B. Huie, claimant for Sisquoc, in Santa Barbara county, granted June 3d, 1833, by Pio Pico to Maria Antonio Caballero; claim filed March 22d, 1852, confirmed by the commission April 24th, 1855, and appeal dismissed February 21st, 1857; containing 35,485.90 acres.

112, 216, N. D.; 197, S. D., (transcript sent to N. D.) Quintin Ortega et al., claimants for San Isidro, 1 square league, in Santa Clara county, granted June 3d, 1833, by José Figueroa to Quintin Ortega et al.; claim filed March 23d, 1852, confirmed by the commission September 19th, 1854, and by the district court June 3d, 1856; containing 4,438.70 acres.

113, 96, N. D. Rafael Garcia, claimant for 9 square leagues, in Mendocino county, granted November 15th, 1844, by Manuel Micheltorena to Rafael Garcia; claim filed March 23d, 1852, rejected by the commission January 17th, 1854, confirmed by the district court, decree reversed, petition dismissed by the U. S. supreme court, and cause remanded for that purpose in 22 Howard [63 U. S.] 274.

114, 68, N. D., 124. Rafael Garcia, claimant for Tomales and Baulinas, 2 square leagues, in Marin county, granted March 19th, 1836, by Nicolas Gutierrez to Rafael Garcia; claim filed March 23d, 1852, confirmed by the commission November 22d, 1853, and appeal dismissed October 19th, 1858; containing 8,863.25 acres.

115, 233, S. D., 319. José Antonio Estudillo, claimant for San Jacinto, 4 square leagues, in San Diego county, granted December 21st, 1842, by Manuel Jimeno to J. A. Estudillo; claim filed March 23d, 1852, confirmed by the commission November 21st, 1854, and by the district court March 5th, 1858.

116, 80, S. D., 512. José Antonio Aguirre, in right of his wife, claimant for Sobrante of Jacinto Viejo y Nuevo, 5 square leagues, in San Diego county, granted May 9th, 1846, by Pio Pico to Maria del Rosario Estudillo de Aguirre; claim filed March 23d, 1852, rejected by the commission January 17th, 1854, and confirmed by the district court December 24th, 1855.

117, 56, S. D., 313. Manuela Carrillo de Jones, claimant for Santa Rosa Island, described by boundaries, in Santa Barbara county, granted October 4th, 1843, by Manuel Micheltorena to José Antonio and Carlos Carrillo; claim filed March 23d, 1852, rejected by the commission November 15th, 1853, confirmed by the district court January 18th, 1856, and appeal dismissed February 5th, 1857.

118, 81, S. D., 304. Joaquina Alvarado, claimant for Canada Larga ò Verde, one-half square league, in Santa Barbara county, granted June 30th, 1841, by Juan B. Alvarado to J. Alvarado; claim filed March 23d, 1852, rejected by the commission December 20th, 1853, and confirmed by the district court January 20th, 1857.

119, 130, N. D. Juana Briones, claimant for La Purisima Concepcion, 1 square league, in Santa Clara county, granted June 30th, 1840, by Juan B. Alvarado to José Gorgonio and José Ramon; claim filed March 23d, 1852, confirmed by the commission April 11th, 1854, by the district court April 17th, 1856, and appeal dismissed December 24th, 1856; containing 4,436.74 acres.

120, 104, S. D., 569. Maria Antonia de la Guerra y Lataillade, claimant for Cuyama, 11 square leagues, in Santa Barbara county, granted June 9th, 1846, by Pio Pico to Cesario Lataillade; claim filed March 23d, 1852, and rejected by the commission February 28th, 1854.

121, 188, S. D., 410. Luis Arellanes and Emilio Miguel Ortega, claimants for La Punta de la Laguna, 6 square leagues, in San Luis Obispo county, granted December 26th, 1844, by Manuel Micheltorena to L. Arellanes and E. M. Ortega; claim filed March 23d, 1852, confirmed by the commission May 2d, 1854, by the district court January 7th, 1856, and appeal dismissed February 5th, 1857; containing 26,648.42 acres.

122, 12, N. D., 414. Francisco Dye, claimant for El Primer Cañon or Riò de los Berendos, 6 square leagues, in Tehama county, granted May 22d, 1844, by Manuel Micheltorena to F. Dye; claim filed March 23d, 1852, confirmed by the commission December 18th, 1852, by the district court July 23d, 1855, and appeal dismissed February 10th, 1857; containing 26,637.11 acres.

123, 41, S. D., 192. Vicente Cané, claimant for San Bernardo, 1 square league, in San Luis Obispo county, granted February 11th, 1840, by Juan B. Alvarado to Vicente Cané; claim filed March 23d, 1852, confirmed by the commission November 22d, 1853, by the district court September 25th, 1855, and appeal dismissed February 5th, 1856; containing 4,379.42 acres.

124, 1, S. D., 34. John B. R. Cooper, claimant for El Sur, 2 square leagues, in Monterey county, granted September 30th, 1834, by José Figueroa to Juan B. Alvarado; claim filed March 23d, 1852, confirmed by the commission ° December 18th, 1852, by the district court September 21st, 1855, and appeal dismissed February 5th, 1857; containing 8,949.06 acres.

125, 410, N. D., 422. Robert Walkinshaw, claimant for Posolomi, including El Posito de las Animas, 3,042 acres, in Santa Clara county, granted February 15th, 1844, by Juan B. Alvarado and Manuel Micheltorena to Lope Iñigo; claim filed March 23d, 1852, confirmed by the commission November 20th, 1855, and appeal dismissed February 16th, 1857; containing 3,391.90 acres.

126, 45, N. D., 262. Cayetano Juarez, claimant for Tulucay, 2 square leagues, in Napa county, granted October 26th, 1841, by Manuel Jimeno to C. Juarez; claim filed March 23d, 1852, confirmed by the commission April 11th, 1853, by the district court February 25th, 1856, and appeal dismissed February 23d, 1857; containing 8,865.33 acres. Patented.

127, 87, N. D., 344. Joseph Swanson, administrator of the estate of William Welch, claimant for Las Juntas, 3 square leagues, in Contra Costa county, granted February 9th, 1844, by Manuel Micheltorena to William Welch; claim filed March 23d, 1852, con-



firmed by the commission December 20th, 1853, and appeal dismissed November 3d, 1857; containing 13,324.29 acres.

128, 144, N. D., 80. José Maria Amador, claimant for San Ramon, 4 square leagues and 1,800 varas, in Alameda county, granted August 17th, 1835, by José Figueroa to J. M. Amador; claim filed March 23d, 1852, confirmed by the commission August 1st, 1854, by the district court January 14th, 1856, and appeal dismissed January 10th, 1857; containing 16,516.95 acres.

129, 358, N. D. Thomas O. Larkin, claimant for Flugge Ranch or Boga, 5 square leagues, in Butte and Sutter counties, granted February 21st, 1844, by Manuel Micheltorena to Charles William Flugge; claim filed March 24th, 1852, confirmed by the commission July 17th, 1854, and appeal dismissed February 9th, 1857; containing 22,150.71 acres.

130, 115, N. D., 417. Francis Larkin et al., claimants for Larkin's Rancho, 10 square leagues, in Colusi county, granted December 15th, 1844, by Manuel Micheltorena to F. Larkin et al.; claim filed March 24th, 1852, confirmed by the commission April 25th, 1854, by the district court January 14th, 1856, and appeal dismissed February 10th, 1857; containing 44,364.22 acres. Patented.

131, 23, N. D., 413. Thomas O. Larkin et al., claimants for Jimeno Rancho, 11 square leagues, in Colusi and Yuba counties, granted November 4th, 1844, by Manuel Micheltorena to Manuel Jimeno; claim filed March 24th, 1852, confirmed by the commission January

10th, 1853, by the district court July 5th, 1855. and by the U. S. supreme court in 18 Howard [59 U. S.] 557; containing 48,854.26 acres.

132, 105, S. D., 291. Vicente Sanchez et al., heirs of José Maria Sanchez, claimants for Lomerias Muertas, 1½ square leagues, in Monterey county, granted August 16th, 1842, by Juan B. Alvarado to José Antonio Castro; claim filed March 30th, 1852, confirmed by the commission March 14th, 1854, by the district court February 1st, 1856, and appeal dismissed February 24th, 1857; containing 6,651.91 acres.

133, 106, S. D., 49. José Maria Sanchez, claimant for Llano del Tequisquita, one-half square league, in Monterey county, granted October 12th, 1835, by José Castro to J. M. Sanchez; claim filed March 30th, 1852, confirmed by the commission March 14th, 1854, by the district court February 1st, 1856, and appeal dismissed February 24th, 1857; containing 16,016.30 acres.

134, 92, N. D. M. G. Vallejo, claimant for lot 150 by 130 varas, in Sonoma city, granted July 5th, 1835, by José Figueroa to M. G. Vallejo; claim filed March 30th, 1852, confirmed by the commission January 17th, 1854, by the district court February 18th, 1856, and appeal dismissed February 23d, 1857; containing 3.81 acres.

135, 107, S. D., 139. José de la Guerra y Noriega, claimant for Conejo, described by boundaries, in Santa Barbara county, granted October 12th, 1822, by Pablo V. de Sola to José de la G. y Noriega; claim filed March 30th, 1852, confirmed by the commission March 14th, 1854, by the district court February 16th, 1857, and appeal dismissed February 21st, 1859; containing 48,671.56 acres.

136, 41, N. D., 172. Jasper O'Farrell, claimant for Estero Americano, 2 square leagues, in Sonoma county, granted September 4th, 1839, by Manuel Jimeno to Ed. Manuel McIntosh; claim filed March 30th, 1852, confirmed by the commission April 11th, 1853, and appeal dismissed February 2d, 1857; containing 8,849.13 acres. Patented.

137, 26, S. D., 251. Guadalupe Cantua, claimant for San Luisito, described by boundaries, in San Luis Obispo county, granted August 6th, 1841, by Juan B. Alvarado to G. Cantua; claim filed March 30th, 1852, confirmed by the commission October 25th, 1853, by the district court September 25th, 1855, and appeal dismissed February 5th, 1856; containing 4,389.13 acres. Patented.

138, 7, S. D. John B. R. Cooper, claimant for Bolsas del Potrero y Moro Cojo or La Sagrada Familia, 2 square leagues, in Monterey county, granted June 22d, 1822, P. V. de Sola to Jose Joaquin de la Torre; claim filed March 30th, 1852, confirmed by the commission February 21st, 1853, by the district court January 10th, 1856, and appeal dismissed February 5th, 1857; containing 6,915.77 acres. Patented.

139, 168, S. D., 142. Fernando Tico, claimant for Ojay, described by boundaries, in Santa Barbara county, granted April 6th, 1837, by Juan B. Alvarado to F. Tico; claim filed

March. 30th, 1852, confirmed by the commission May 16th, 1854, by the district court October 2d, 1855, and appeal dismissed February 5th, 1857; containing 17,792.70 acres.

140, 73, S. D., 218. Julian Estrada, claimant for Santa Rosa, 3 square leagues, in San Luis Obispo county, granted June 18th, 1841, by Juan B. Alvarado to J. Estrado; claim filed March 30th, 1852. confirmed by the commission January 17th, 1854, by the district court September 26th, 1855, and appeal dismissed February 5th, 1857; containing 13,183.62 acres.

141, 37, N. D. José Maria Alviso, claimant for Milpitas, 1 square league, in Santa Clara county, granted September 23d, 1835, by José Castro to J. M. Alviso; claim filed March 30th, 1852, confirmed by the commission March 14th, 1853, by the district court March 3d, 1856, and appeal dismissed December 5th, 1856; containing 4,807 acres.

142, 237, N. D. Robert S. Eaton, claimant for part of Cañada de Guadalupe Visitacion y Rodeo Viejo, 700 acres of 2 square leagues, in San Francisco and San Mateo counties, (No. 745) granted July 31st, 1841, by Juan B. Alvarado to Jacob P. Leese; claim filed March 30th, 1852, confirmed by the commission December 19th, 1854, by the district court October 18th, 1858, and appeal dismissed October 18th, 1858; containing 766.35 acres.

143, 38, N. D., 392. John Bidwell, claimant for Arroyo Chico, described by boundaries, in Butte county, granted November 18th, 1844, by Manuel Micheltoarena to William Dickey; claim filed March 30th, 1852, confirmed by the commission March 14th, 1853, by the district court July 16th, 1855, and by the U. S. supreme court; containing 22,214.47 acres. Patented.

144, 28, N. D., 473. Charles D. Semple, claimant for Rancho de Colus, 2 square leagues, in Colusi county, granted October 4th, 1845, by Pio Pico to John Bidwell; claim filed March 31st, 1852, rejected by the commission October 25th, 1853, confirmed by the district court July 5th, 1855, and by the U. S. supreme court; containing 8,876.02 acres.

145, 5, S. D., 70, 88. Concepcion Munras et al., heirs of Stephen Munras, claimants for San Vicente, 2 square leagues, in Monterey county, granted December 16th, 1835, by José Castro, September 20th, 1836, by Nicolas Gutierrez, and 2½ square leagues November 11th, 1842, by Juan B. Alvarado to Francisco Soto and Stephen Munras; claim filed April 1st, 1852, confirmed by the commission February 14th, 1853, by the district court February 20th, 1856, and appeal dismissed February 24th, 1859; containing 19,979.01 acres.

146, 53, N. D., 403. Samuel Norris, claimant for Rancho del Paso, 10 square leagues, in Sacramento and Placer counties, granted December 20th, 1844, by Manuel Micheltoarena to Eliab Grimes; claim filed April 1st, 1852, confirmed by the commission April 18th, 1853, by the district court August 13th, 1855, and appeal dismissed December 22d, 1856; containing 44,371.42 acres.

147, 301, N. D. Charles Covillaud et al., administrators of the estate of John Thompson et al., claimants for Honcut, 7 square leagues, in Yuba county, granted December 22d, 1844, by Manuel Micheltoarena and J. A. Sutter to Teodora Cordua; claim filed April 1st, 1852, confirmed by the commission March 27th, 1855, by the district court February 23d, 1857, and appeal dismissed August 21st, 1857; containing 31,069.33 acres.

148, 228, N. D. Antonia Higuera et al., heirs of José Higuera, claimants for Los Tularcitos, described by boundaries, in Santa Clara and Alameda counties, granted October 4th, 1821, by P. V. de Sola to José Higuera; claim filed April 1st, 1852, confirmed by the commission November 28th, 1854, and appeal dismissed December 12th, 1856; containing 4,394.35 acres.

149, 203, N. D. Antonia Higuera et al., claimants for Llano del Abrevadero, described by boundaries, in Santa Clara county, granted January 1st 1822, by P. V. de Sola to José Higuera; claim filed April 1st, 1852, rejected by the commission December 19th, 1854, and appeal dismissed for failure of prosecution April 21st, 1853.

150, 25, N. D., 418. Guillermo Chard, claimant for Rancho de las Flores, 3 square leagues, in Tehama county, granted December 24th, 1844, by Manuel Micheltoarena to G. Chard;

claim filed April 2d, 1852, confirmed by the commission February 7th, 1853, by the district court July 16th, 1855, and appeal dismissed January 13th, 1857; containing 13,315.58 acres. Patented.

151, 108, S. D., 169. Mariano Malarin, executor of the estate of Juan Malarin, claimant for Zanjones, 1½ square leagues, in Monterey county, granted August 20th, 1839, by Manuel Jimeno to Gabriel de la Torre; claim filed April 2d, 1852, confirmed by the commission February 21st, 1854, by the district court January 11th, 1856. and appeal dismissed February 5th, 1857; containing 6,714.49 acres.

152, 109, S. D., 21. Mariano Malarin, executor of the estate of Juan Malarin, claimant for Guadalupe Llanito de los Correos, 2 square leagues, in Monterey county, granted May 22d, 833, by José Figueroa to Juan Malarin; claim filed April 2d, 1852, confirmed by the commission February 21st, 1854, by the district court January 11th, 1856, and appeal dismissed February 5th, 1857; containing 8,858.44 acres.

153, 204, S. D. Mariano Malarin, attorney for José Santiago Estrada and brothers, claimants for Buenavista, 2 square leagues, in Monterey county, granted May 28th, 1822, by L. A. Arguello to José Santiago Estrada and brothers; claim filed April 2d, 1852, confirmed by the commission September 26th, 1854, and appeal dismissed January 14th, 1857; containing 7,725.56 acres.

154, 110, S. D., 46, 176. Mariano Malarin, executor of the estate of Juan Malarin, claimant for Chualar, 2 square leagues, in Monterey county, granted September 7th, 1839, by Manuel Jimeno to Juan Malarin; claim filed April 2d, 1852, confirmed by the commission February 21st, 1854, by the district court January 11th, 1856, and appeal dismissed February 5th, 1857; containing 8,889.68 acres.

155, 16, S. D., 77. Catalina Manzaneli de Munras, claimant for Laguna Seca, 1 league by 1½ in Monterey county, granted June 22d, 1834, by José Figueroa to C. M. de Munras; claim filed April 2d, 1852, confirmed by the commission April 11th, 1853, by the district court February 20th, 1856, and appeal dismissed February 24th, 1857; containing 2,179.50 acres.

156, 56, N. D. 421. William H. McKee, claimant for Jacinto, 8 square leagues, in Colusi county, granted September 2d, 1844, by Manuel Micheltorena to Jacinto Rodriguez; claim filed April 2d, 1852, rejected by the commission October 18th, 1853, confirmed by the district court January 15th, 1857, and appeal dismissed August 5th, 1857; containing 35,487.52 acres. Patented.

157, 42, N. D. 412. Josefa Soto, claimant for Capay, 10 square leagues, in Colusi and Tehama counties, granted December 21st, 1844, by Manuel Micheltorena to Josefa Soto; claim filed April 5th, 1852, confirmed by the commission April 11th, 1853, by the district court July 16th, 1855, and appeal dismissed November 25th, 1855; containing 44,388.17 acres. Patented.

158, 351, N. D. Alpheus Basilio Thompson, claimant for 8 square leagues, in San Joaquin and Stanislaus counties, granted June 1st, 1846, by Pio Pico to A. B. Thompson; claim filed April 5th, 1852, confirmed by the commission June 19th, 1855, by the district court September 12th, 1856, and appeal dismissed December 24th, 1856; containing 35,532.80 acres. Patented.

159, 51, N. D. Henrique Huber, claimant for Honcut, 8 square leagues, in Butte county, granted February 11th, 1845, by Manuel Micheltorena to E. Huber; claim filed April 5th, 1852, and rejected by the commission October 12th, 1853.

160, 34, N. D., 310. George C. Yount, claimant for La Jota, 1 square league, in Napa county, granted October 23d, 1843, by Manuel Micheltorena to G. C. Yount; claim filed April 5th, 1852, rejected by the commission October 21st, 1853, confirmed by the district court July 6th, 1854, and appeal dismissed April 2d, 1857; containing 4,453.84 acres. Patented.

161, 136, N. D. José Maria Sanchez, claimant for Las Animas or Sitio de la Brea, in Santa Clara county, granted August 17th, 1802, by Marquinas to Mariano Castro, and August 7th, 1835, by José Figueroa to Josefa Romero, widow of M. Castro; claim filed April 5th, 1852, confirmed by the commission February 14th, 1854, by the district court May 17th, 1856, and appeal dismissed January 26th, 1857; containing 24,066.24 acres.

162, 75, S. D., 273. Francisco Branch, claimant for Arroyo Grande or San Ramon, described by boundaries, in San Luis Obispo county, granted April 25th, 1841, by Juan B. Alvarado to Zeferino Carlon; claim filed April 6th, 1852, confirmed by the commission January 17th, 1854, by the district court October 20th, 1855, and appeal dismissed February 24th, 1857; containing 4,437.58 acres.

163, 59, S. D., 152. Teodoro Arellanes, claimant for El Rincon, 1 square league, in Santa Barbara county, granted June 22d, 1835, by José Figueroa to T. Arellanes; claim filed April 6th, 1852, rejected by the commission November 22d, 1853, confirmed by the district court October 18th, 1855, and appeal dismissed February 24th, 1857; containing 4,459.63 acres.

164, 49, N. D., 180. Josefa Haro de Guerrero et al., heirs of Francisco Guerrero Palomares, claimants for El Corral de Tierra, 1 square league, in San Francisco county, granted October 16th, 1839, by Manuel Jimeno, and May 1st, 1844, by Manuel Micheltorena, to F. G. Palomares; claim filed April 6th, 1852, confirmed by the commission April 18th, 1853, by the district court March 24th, 1856, and appeal dismissed December 24th, 1856; containing 7,766.35 acres.

165, 50, N. D., 246, 430. Jacob P. Leese, claimant for Huichicha, 2 square leagues, in Sonoma county, granted October 26th, 1841, by Manuel Jimeno, and July 6th, 1844, by Manuel Micheltorena, to J. P. Leese; claim filed April 6th, 1852, confirmed by the

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commission April 18th, 1853, by the district court April 22d, 1856, and appeal dismissed December 24th, 1856; containing 18,704.04 acres. Patented.

166, 47, N. D., 225. Marico Ygnacio del Bale et al., widow and heirs of Ed. A. Bale, claimants for Came Humana, 4 square leagues, in Napa county, granted March 14th, 1841, by Juan B. Alvarado to Edouardo A. Bale; claim filed April 6th, 1852, confirmed by the commission April 18th, 1853, by the district court March 24th, 1856, and appeal dismissed December 24th, 1856.

167, 289, N. D., 210, 354. Antonio Suñol et al., claimants for part of Los Coches, one-half square league, in Santa Clara county, granted March 12th, 1844, by Manuel Micheltoarena to Roberto; claim filed April 6th, 1852, confirmed by the commission March 20th, 1855, by the district court April 1st, 1856, and appeal dismissed December 24th, 1856; containing 2,219.34 acres. Patented.

168, 46, N. D., 36. Heirs of Juan Sanchez de Pacheco, claimants for Arroyo de las Nueces y Bolbones, 2 square leagues, in Contra Costa county, granted July 11th, 1834, by José Figueroa to J. S. de Pacheco; claim filed April 6th, 1852, confirmed by the commission April 11th, 1853, by the district court December 22d, 1856, decision of the U. S. supreme court as to the right of appeal in 20 Howard, 261 [61 U. S.] and decree of the district court affirmed by

the U. S. supreme court in 22 Howard [63 U. S.] 225; containing 17,734.52 acres.

169, 111, S. D. James Stokes, claimant for Rancho de las Vergeles, formerly called Rancho de la Cañada de Enmedio and Cañada de Cebada, 2 square leagues, in Monterey county, granted August 28th, 1835, by José Figueroa, and September 4th, 1835, by Jose Castro, to José Joaquin Gomez; claim filed April 7th, 1852, rejected by the commission February 21st, 1854, confirmed by the district court September 28th, 1855, and appeal dismissed February 24th, 1857; containing 8,759.82 acres.

170, 359, S. D., 15. Henry D. McCobb, claimant for Corral de Tierra, described by boundaries, in Monterey county, granted April 15th, 1836, by Nicolas Gutierrez to Guadalupe Figueroa; claim filed April 7th, 1852, confirmed by the commission July 3d, 1855, and by the district court June 17th, 1859.

171, 200, N. D. John Frederick Schultess, claimant for 37 50-vara lots, Mission Dolores, in San Francisco county, granted February 10th, 1846, by Pio Pico to Prudencio Santillan; claim filed April 8th, 1852, rejected by the commission December 19th, 1854, and appeal dismissed for failure of prosecution April 21st, 1856.

172, 201, N. D. John Frederick Schultess et al., claimants for 47 50-vara lots, Mission Dolores, in San Francisco county; claim filed April 8th, 1852, rejected by the commission December 19th, 1854, and appeal dismissed for failure of prosecution April 21st, 1856.

173, 182, N. D., 328, 423. Catherine Sheldon, administratrix, and Gabriel W. Gunn, administrator of the estate of Jared Sheldon, claimant for Omochumne, 5 square leagues, in Sacramento county, granted January 8th, 1844, by Manuel Micheltoarena to Joaquin Sheldon; claim filed April 10th, 1852, confirmed by the commission October 10th, 1854, by the district court December 3d, 1856, and appeal dismissed August 6th, 1857.

174, 175, S. D., 367. José Amesti, claimant for Los Corralitos, 4 square leagues, in Santa Cruz county, granted April 1st, 1844, by Manuel Micheltoarena to José Amesti; claim filed April 13th, 1852, confirmed by the commission May 2d, 1854, and appeal dismissed January 28th, 1857; containing 15,440.02 acres. Patented.

175, 347, S. D. Santiago Arguello, claimant for Mission San Diego, in San Diego county, granted June 8th, 1846, by Pio Pico; claim filed April 13th, 1852, confirmed by the commission June 26th, 1855, and by the district court June, 1858.

176, 340, S. D., 187. Andres Castellero, claimant for Island of Santa Cruz, described by boundaries, in Santa Barbara county, granted May 22d, 1839, by Juan B. Alvarado to Andres Castellero; claim filed April 13th, 1852, confirmed by the commission July 3d, 1855, by the district court January 14th, 1857, and decree affirmed by the U. S. supreme court in 23 Howard [64 U. S.] 464.

177, 72, S. D., 406. José Mariano Bonilla, claimant for 100 varas by 50, in San Luis Obispo county, granted September 30th, 1844, by Manuel Micheltoarena to J. M. Bonilla;



claim filed April 13th, 1852, confirmed by the commission January 24th, 1854, by the district court September 27th, 1855, and appeal dismissed February 5th, 1857.

178, 61, S. D., 481. Joaquin Carrillo and José Antonio Carrillo, claimants for Mission Vieja de la Purisima, 1 square league, in Santa Barbara county, granted November 20th, 1845, by Pio Pico; claim filed April 13th, 1852, confirmed by the commission November 15th, 1853, and appeal dismissed June 8th, 1857; containing 4,443.43 acres.

179, 73, N. D. Rafaela Soto de Pacheco et al., claimants for San Ramon, 2 square leagues, in Contra Costa county, granted June 10th, 1833, by José Figueroa; claim filed April 13th, 1852, rejected by the commission November 22d, 1853, and confirmed by the district court February 8th, 1858.

180, 382, N.D., 511. Jasper O'Farrell, claimant for Canada de Capay, 9 square leagues, in Yolo county, granted May 2d, 1846, by Pio Pico to Santiago Nemesis and Francisco Berreyesa; claim filed April 13th, 1852, confirmed by the commission August 14th, 1855, by the district court March 2d, 1857, and appeal dismissed April 2d, 1857; containing 40,078.58 acres.

181, 324, N. D., 416. Hiram Grimes, claimant for San Juan, 4% square leagues, in Placer and Sacramento counties, granted December 24th, 1844, by Manuel Micheltorena to Joel P. Dedmond; claim filed April 13th, 1852, confirmed by the commission May 8th, 1855, by the district court June 3d, 1856, and appeal dismissed August 11th, 1857; containing 19,982.70 acres. Patented.

182, 367, N. D. Peter Lassen, claimant for Bosquejo, 5 square leagues, in Tehama county, granted December 26th, 1844, by Manuel Micheltorena to P. Lassen; claim filed April 14th, 1852, confirmed by the commission July 24th, 1855, by the district court March 2d, 1857, and appeal dismissed July 29th, 1857; containing 16,208.65 acres.

183, 179, N. D. Samuel Neal, claimant for Esquon, 5 square leagues in Butte county, granted December 22d, 1844, by Manuel Micheltorena and J. A. Sutter to S. Neal; claim filed April 16th, 1852, rejected by the commission January 23d, 1855, confirmed by the district court March 2d, 1857, and appeal dismissed July 30th, 1857; containing 22,193.78 acres. Patented.

184, 295, N. D., 31. Martina Castro, claimant for Shoquel, 3 miles by one-half league, in Santa Cruz county, granted November 23d, 1833, by José Figueroa to M. Castro; claim, filed April 16th, 1852, confirmed by the commission June 23d, 1854, and appeal dismissed January 22d, 1857; containing 1,668.03 acres. Patented.

185, 371, N. D., 415. William B. Ide, claimant for Baranca Colorada, 4 square leagues, in Tehama county, granted December 4th, 1844, by Manuel Micheltorena to Josiah Belden; claim filed April 19th, 1852, confirmed by the commission July 24th, 1855, and appeal dismissed January 13th, 1857; containing 17,707.49 acres. Patented.

186, 40, S. D., 302. Joaquin de la Torre, claimant for Arroyo Seco, 4 square leagues, in Monterey county, granted December 30th, 1840, by Juan B. Alvarado to J. de la Torre; claim filed April 20th, 1852, rejected by the commission November 22d, 1853, confirmed by the district court March 3d, 1856, and appeal dismissed January 9th, 1857; containing 16,523.35 acres. Patented.

187, 289, S. D. Sebastian Rodriguez, claimant for Bolsa del Pajaro, 2 square leagues, in Santa Cruz county, granted September 30th, 1837, by Juan B. Alvarado to S. Rodriguez; claim filed April 20th, 1852, confirmed by the commission March 27th, 1855, and appeal dismissed February 21st, 1857; containing 5,496.51 acres. Patented.

188, 257, S. D., 554. Frederick Billings et al., assignees of Bezer Simmons, claimants for an island, 2 square leagues, in San Diego county, granted May 15th, 1846, by Pio Pico to Pedro C. Carrillo; claim filed April 20th, 1852, rejected by the commission October 31st, 1853, and confirmed by the district court January 9th, 1857.

189, 49, S. D., 479. Maria Antonia de la Guerra y Lataillade, claimant for Corral de Cuati, 3 square leagues, in Santa Barbara county, granted November 14th, 1845, by Pio Pico to Agustin Davila; claim filed April 20th, 1852, confirmed by the commission. November 22d, 1853, by the district court September 16th, 1855, and appeal dismissed February 5th, 1857; containing 13,300.24 acres.

190, 45, S. D., 237. José Maria Villavicencia, claimant for Corral de Piedra, 2 square leagues, in San Luis Obispo county, granted May 14th, 1841, by Juan B. Alvarado, with an extension of 5, granted May 28th, 1846, by Pio Pico, to J. M. Villavicencia; claim filed April 20th, 1852, confirmed by the commission November 15th, 1853, by the district court December 3d, 1855, and appeal dismissed February 24th, 1857; containing 30,911.20 acres.

191, 112, S. D., 7. Charles Walters, claimant for El Toro, 1½ square leagues, in Monterey county, granted April 17th, 1835, to José Ramon Estrada; claim filed April 20th, 1852, confirmed by the commission December 22d, 1852, by the district court October 5th, 1855, and appeal dismissed February 24th, 1857; containing 5,668.41 acres.

192, 229, N. D., 202. Sebastian Rodriguez, claimant for Rincon de la Ballena, 1 square league, in Santa Cruz county, granted April 15th, 1839, by Juan B. Alvarado to José Cornelio Bernal; claim filed April 20th, 1852, and rejected by the commission November 14th, 1854.

193, 227, N. D., 264. John B. B. Cooper, claimant for El Molino or Rio Ayoska, 10½ square leagues, in Sonoma county, granted December 31st, 1833, by José Figueroa, and February 24th, 1836, by Nicolas Gutierrez to J. B. R. Cooper; claim filed April 20th, 1852, confirmed by the commission November 14th, 1854, by the district court March 24th, 1856, and appeal dismissed December 15th, 1856; containing 17,892.42 acres. Patented.

194, 39, N. D., 226. Salvador Vallejo, claimant for Llajome, 1½ square leagues, in Napa county, granted March 16th, 1841, by Juan B. Alvarado to Tomaso A. Rodriguez; claim filed April 20th, 1852, confirmed by the commission February 21st, 1853, and appeal dismissed February 9th, 1857; containing 6,652.55 acres.

195, 3, S. D., 95. Josefa Antonia Gomez de Walters et al., widow and heirs of Rafael Gomez, claimants for Los Tularcitos, 6 square leagues, in Monterey county, granted December 18th, 1834, by José Figueroa to Rafael Gomez; claim filed April 20th, 1852, confirmed by the commission December 22d, 1852, by the district court September 24th, 1855, and appeal dismissed February 5th, 1857; containing 26,581.34 acres.

196, 302, N. D. Charles Chana, claimant for Nemshas, 4 square leagues, granted July 26th, 1844, by Manuel Micheltorena to Teodoro Sicard; claim filed April 22d, 1852, confirmed by the commission January 23d, 1855, by the district court October 16th, 1856,

judgment of district court reversed by the U. S. supreme court and petition dismissed in 24 Howard [65 U. S.] 151.

197, 74, N. D., 400. José B. Chiles, claimant for Catacula, 2 square leagues, in Napa county, granted November 4th, 1844, by Manuel Micheltoarena to J. B. Chiles; claim filed April 21st, 1852, confirmed by the commission November 4th, 1853, by the district court August 13th, 1855, and appeal dismissed April 2d, 1857; containing 8,545.72 acres.

198, 40, N. D., 207. Ygnacio Pacheco, claimant for San José, 1½ square leagues, in Marin county, granted October 3d, 1840, by Juan B. Alvarado to Y. Pacheco; claim filed April 23d, 1852, confirmed by the commission April 11th, 1853, by the district court March 24th, 1857, and appeal dismissed July 31st, 1857; containing 6,659.25 acres. Patented.

199, 15, N. D., 507. Charles Mayer et al., claimants for German, 5 square leagues, in Mendocino county, granted April 8th, 1846, by Pio Pico to Ernest Rufus; claim filed April 27th, 1852, confirmed by the commission December 22d, 1852, by the district court September 10th, 1855, and by the U. S. supreme court; containing 17,580.01 acres.

200, 81, N. D., 230. Teodoro Robles and Secundino Robles, claimants for Rincon de San Francisquito, in Santa Clara county, granted March 29th, 1841, by Juan B. Alvarado to José Pefia; claim filed April 27th, 1852, confirmed by the commission November 29th, 1853, by the district court October 29th, 1855, and by the U. S. supreme court.

201, 33, N. D. Samuel J. Hensley, claimant for Aguas Nieves, 6 square leagues, in Butte county, granted December 22d, 1844, by Manuel Micheltoarena to Samuel J. Hensley; claim filed April 27th, 1852, confirmed by the commission February 14th, 1853, by the district court July 5th, 1855, decision of the U. S. supreme court as to the right of appeal in 20 Howard [61 U. S.] 261.

202, 43, N. D., 549. William Gordon and Nathan Coombs, claimants for Chimiles, 4 square leagues, in Napa county, granted May 2d, 1846, by Pio Pico to José Ygnacio Berreyesa; claim filed April 28th, 1852, confirmed by the commission April 11th, 1853, and appeal dismissed July 27th, 1857; containing 17,762.44 acres. Patented.

203, 26, N. D. William Gordon, claimant for Quesesosi or Guesesosi, 2 square leagues, in Yolo county, granted January 27th, 1843, by Manuel Micheltoarena to William Gordon; claim filed April 28th, 1852, confirmed by the commission January 10th, 1853, by the district court March 2d, 1857, and appeal dismissed June 2d, 1857; containing 8,894.49 acres. Patented.

204, 308, N. D. Teodora Soto, claimant for Canada del Hambre and Las Bolsas del Hambre, 2 square leagues, in Contra Costa county, granted May 18th, 1842, by Juan B. Alvarado to Teodora Soto; claim filed April 29th, 1852, confirmed by the commission May 15th, 1855, by the district court April 16th, 1857, and appeal dismissed August 11th, 1857; containing 13,312.70 acres.

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205, 121, N. D., 571. James D. Galbraith, claimant for Bolsa de Tomales, 5 square leagues, in Marin county, granted June 12th, 1845, by Pio Pico to Juan N. Padilla; claim filed April 29th, 1852, confirmed by commission April 11th, 1854, by the district court December 1st, 1854, decree reversed by the U. S. supreme court and cause remanded in 22 Howard [63 U. S.] 87. Confirmed by the district court February 7th, 1861.

206, 336, S. D., 110. Antonia Maria Cota et al., heirs of Tomas Olivera, claimants for Tepusquet, 2 square leagues, in Santa Barbara county, granted April 7th, 1837, by Juan B. Alvarado to Thomas Olivera; claim filed April 30th, 1852, confirmed by the commission July 3d, 1855, and appeal dismissed February 21st, 1857; containing 8,900.75 acres.

207, 246, N. D.; 286 S. D., (returned to N. D. September 21st, 1855.) Joseph L. Majors, in behalf of his wife, Maria de los Angeles Castro, claimant for Rancho del Refugio, one-third of Rancho, in Santa Cruz county, granted April 8th, 1839, by Juan B. Alvarado to Maria Candida, Maria Jacinta and Maria de los Angeles Castro; claim filed April 30th, 1852, rejected by the commission January 15th, 1855, and for failure of prosecution appeal dismissed December 18th, 1856.

208, 180, N. D., 233. J. L. Majors, claimant for San Agustin, 1 square league, in Santa Cruz.

county, granted April 21st 1841, by Juan B. Alvarado to Juan José Crisostomo Mayor; claim filed April 30th, 1852, confirmed by the commission September 26th, 1854, by the district court December 23d, 1857, and appeal dismissed December 23d, 1857; containing 4,436.78 acres.

209, 250, N. D., 324. Ramon Rodriguez and Francisco Alviso, claimants for Agua Puerca and Las Trancas, 1 square league, in Santa Cruz county, granted November 2d, 1843, by Manuel Micheltorena to R. Rodriguez and F. Alviso; claim filed April 30th, 1852, and rejected by the commission January 30th, 1855.

210, 255, N. D. William Bocle, claimant for La Carbonera, one-half square league, in Santa Cruz county, granted February 3d, 1838, by Juan B. Alvarado to William Bocle; claim filed April 30th, 1852, confirmed by the commission January 23d, 1855, and appeal dismissed February 13th, 1857; containing 1,062.14 acres.

211, 113, S. D. Henry Haight, claimant for Atascadero, 1 square league, in San Luis Obispo county, granted May 6th, 1842, by Juan B. Alvarado to Trifon Garcia; claim filed May 3d, 1852, confirmed by the commission March 6th, 1855, and appeal dismissed January 19th, 1857; containing 4,348.23 acres. Patented.

212, 288, N. D. Pearson Barton Reading, claimant for part of Capay, (see No. 157) 5 square leagues, in Tehama county, granted October 13th, 1835, by Manuel Micheltorena to Josefa Soto; claim filed May 3d, 1852, and rejected by the commission March 6th, 1855.

213, 107, N. D., 30. John Marsh, claimant for Los Mejanos, 4 leagues by 3, in Contra Costa county, granted October 13th, 1835, by José Castro to José Noriega; claim filed May 3d, 1852, rejected by the commission March 14th, 1854, confirmed by the district court April 9th, 1858, and by the U. S. supreme court.

214, 275, S. D., 131. Francisco and Juan Bolcoff, claimants for Refugio, 3 leagues by 2, in Santa Cruz county, granted April 7th, 1841, by Juan B. Alvarado to José Bolcoff; claim filed May 5th, 1852, confirmed by the commission January 30th, 1855, and appeal dismissed February 21st, 1857; containing 12,147.12 acres. Patented.

215, 37, S. D., 130. Miguel Abila, claimant for San Miguelito, 2 square leagues, in San Luis Obispo county, granted May 10th, 1842, by Juan B. Alvarado to M. Abila; claim filed May 5th, 1852, confirmed by the commission December 6th, 1853, by the district court January 25th, 1856, and appeal dismissed February 23d, 1857.

216, 38, S. D., 503. Miguel Abila, claimant for addition to San Miguelito, (see No. 215) 500 varas, in San Luis Obispo county, granted March 17th, 1846, by Pio Pico to Bliguel Abila; claim filed May 6th, 1852, confirmed by the commission December 6th, 1853, by the district court January 25th, 1856, and appeal dismissed February 25th, 1857.

217, 21, S. D., 355, 478. Octaviano Gutierrez, claimant for La Laguna, in Santa Barbara county, granted November 13th, 1845, by Pio Pico to Miguel Abila; claim filed May

7th, 1852, confirmed by the commission February 21st, 1853, by the district court December 3d, 1855, and appeal dismissed February 23d, 1857; containing 18,212.48 acres.

218, 28, S. D., 268, 317, 470, 524. John Wilson, claimant for Cañada de los Osos Pecho y Islay, in San Luis Obispo county, granted December 1st, 1842, by Juan B. Alvarado to Victor Linares, April 27th, 1843, by Manuel Micheltoarena to Francisco Vadillo, and September 24th, 1845, by Pio Pico to James Scott and John Wilson; claim filed May 7th, 1852, confirmed by the commission April 18th, 1853, and appeal dismissed January 8th, 1859; containing 32,430.70 acres.

219, 200, S. D., 272. Guillermo Domingo Foxon, claimant for Tinaquaic, 2 square leagues, in Santa Barbara county, granted May 6th, 1837, by Juan B. Alvarado to Victor Linares; claim filed May 7th, 1852, confirmed by the commission February 7th, 1853, by the district court October 5th, 1855, and appeal dismissed February 5th, 1857; containing 8,874.60 acres.

220, 25, S. D., 474. John Wilson, claimant for Cañada del Chorro, 1 square league, in San Luis Obispo county, granted October 10th, 1845, by Pio Pico to Diego Scott and Juan Wilson; claim filed May 7th, 1852, confirmed by the commission April 18th, 1853, by the district court October 20th, 1855, and appeal dismissed February 5th, 1857; containing 3,166.99 acres. Patented.

221, 184, S. D., 534, 575. Thomas M. Robbins and Manuela Carrillo de Jones, claimants for La Calera or Las Positas, described by boundaries, in Santa Barbara county, granted May 16th, 1843, by Manuel Micheltoarena to Narciso Fabrigat, and one-half square league additional, July 1st, 1846, by Pio Pico to Thomas M. Robbins; claim filed May 8th, 1852, confirmed by the commission April 11th, 1854, and appeal dismissed February 21st, 1857; containing 3,281.70 acres.

222, 2, S. D., 372. John Keyes, claimant for Cañada de Salsipuedes, 1½ square leagues, in Santa Barbara county, granted May 18th, 1844, by Manuel Micheltoarena to Pedro Cordero; claim filed May 8th, 1852, confirmed by the commission December 18th, 1852, by the district court October 12th, 1855, and appeal dismissed February 24th, 1857; containing 6,655.38 acres.

223, 134, N. D., 182. Juan Martin, claimant for Corte de Madera de Novato, 2 square leagues, in Marin county, granted October 16th, 1839, by Juan B. Alvarado to J. Martin; claim filed May 8th, 1852, confirmed by the commission February 14th, 1854, by the district court October 29th, 1855, and appeal dismissed September 8th, 1857; containing 8,878.82 acres.

224, 366, S. D. John Wilson, claimant for part of the buildings of the Mission San Luis Obispo, in San Luis Obispo county, granted December 6th, 1845, by Pio Pico to Scott, Wilson and McKinley; claim filed May 10th, 1852, confirmed by the commission July 17th, 1855, and by the district court June 8th, 1858.

225, 231, S. D. Valentin Cota et al., claimants for Rio de Santa Clara, in Santa Clara county, granted May 22d, 1837, by Juan B. Alvarado to Valentin Cola et al.; claim filed May 10th, 1852, rejected by the commission October 31st, 1854, and confirmed by the district court June 4th, 1857.

226, 268, N. D. Michael C. Nye, claimant for Willy, 4 square leagues, granted December 22d, 1844, by Manuel Micheltorena and J. A. Sutter to Michael C. Nye; claim filed May 10th, 1852, confirmed by the commission February 8th, 1855, by the district court February 16th, 1857, and rejected by the U. S. supreme court in 21 Howard [62 U. S.] 408.

227, 370, N. D., 396. Andrew Randall and Samuel Todd, claimants for Aguas Frias, 6 square leagues, in Butte county, granted November 10th, 1844, by Manuel Micheltorena to Salvador Osio; claim filed May 12th, 1852, confirmed by the commission July 17th, 1853, by the district court May 7th, 1857, and appeal dismissed July 7th, 1857; containing 26,761.40 acres. Patented.

228, 362, N. D., 252, 419, and 357, S. D. Guillermo Eduardo Hartnell, claimant for Todos Santos y San Antonio, 5 square leagues, in Santa Barbara county, granted August 28th, 1841, by Juan B. Alvarado, and Cosumnes, 11 square leagues, in Sacramento county, November 3d, 1844, by Manuel Micheltorena to Salvador Osio; claim filed May 12th, 1852, confirmed for six



leagues on the Cosumnes river by the commission August 7th, 1855, by the district court May 14th, 1857, and decree affirmed by the U. S. supreme court in 22 Howard [63 U. S.] 286.

229, 131, N. D. Josefa Palomares et al., heirs of Francisco Guerrero, claimants for 400 varas square, Mission Dolores, in San Francisco county, granted November 30th, 1836; claim filed Slay 15th, 1852, confirmed by the commission March 14th, 1854, by the district court March 24th, 1856, and appeal dismissed April 2d, 1857; containing 28.41 acres.

230, 232, N. D., 281. William Wolfskill, claimant for Rio de los Putos, 4 square leagues, in Yolo and Solano counties, granted May 24th, 1842, by Juan B. Alvarado to Francisco Guerrero; claim filed May 15th, 1852, confirmed by the commission November 7th, 1854, and appeal dismissed March 14th, 1857; containing 17,754.73 acres. Patented.

231, 102, N. D., 126. Antonio Suñol et al., claimants for El Valle de San José, described by boundaries, in Alameda county, granted April 10th, 1839, by Juan B. Alvarado to Antonio Maria Pico et al.; claim filed May 18th, 1852, confirmed by the commission January 31st, 1854, by the district court January 14th, 1856, and decision of the U. S. supreme court as to the right of appeal in 20 Howard [61 U. S.] 261; containing 51,572.26 acres.

232, 103, N. D., 548. Juan Roland, claimant for 11 square leagues, at the junction of the San Joaquin and Stanislaus rivers, granted May 2d, 1846, by Pio Pico to Juan Roland; claim filed May 18th, 1852, and rejected by the commission January 31st, 1854.

233, 329, N. D., 365. Joshua S. Brackett, claimant for SoulaJule, 3 square leagues, in Marin county, granted March 29th, 1844, by Manuel Micheltorena to Ramon Mesa; claim filed May 20th, 1852, rejected by the commission April 17th, 1855, confirmed by the district court March 3d, 1856, and appeal dismissed August 7th, 1857; containing 2,492.19 acres.

234, 328, N. D. George N. Cornwell, claimant for SoulaJule, 1<sup>3</sup>/<sub>4</sub> square miles, in Marin county, granted March 29th, 1844, by Manuel Micheltorena to Ramon Mesa; claim filed May 20th, 1852, rejected by the commission April 17th, 1855, confirmed by the district court February 23d, 1857, and appeal dismissed August 7th, 1857; containing 919.18 acres.

235, 348, N. D. Emanuel Pratt, claimant for Socayac, 3 square leagues, granted December 22d, 1844, by Manuel Micheltorena to John Chamberlain; claim filed May 21st, 1852, confirmed by the commission July 10th, 1855, by the district court March 16th, 1857, and decree reversed by the U. S. supreme court, with direction to dismiss the petition, in 23 Howard [64 U. S.] 476.

236, 175, N. D., 433. Maria Anastasia Higuera de Berreyesa, claimant for Las Putas, 8 square leagues, in Solano county, granted November 3d, 1843, by Manuel Micheltorena to José de Jesus y Sisto Berreyesa; claim filed May 21st, 1852, confirmed by the commis-

sion September 5th, 1854, by the district court August 13th, 1855, and appeal dismissed April 2d, 1857; containing 35,515.82 acres.

237, 423, N. D. Mayor and common council of Sonoma, claimants for Pueblo of Sonoma, 4 square leagues, granted June 24th, 1835, by M. G. Vallejo to Pueblo of Sonoma; claim filed May 21st, 1852, and confirmed by the commission January 22d, 1856.

238, 129, N. D., 221. Maria Antonia Mesa, widow of Rafael Soto, claimant for Rinconada del Arroyo de San Francisquito, one-half square league, in Santa Clara county, granted February 16th, 1841, by Juan B. Alvarado to M. A. Mesa; claim filed May 25th, 1852, rejected by the commission March 21st, 1854, confirmed by the district court November 26th, 1855, and appeal dismissed April 16th, 1857; containing 2,229.84 acres.

239, 191, S. D., 391. José Joaquin Ortega and Edouardo Stokes, claimants for Santa Ysabel, 4 square leagues, in San Diego county, granted November 9th, 1844, by Manuel Micheltorena to José Joaquin Ortega and Edouardo Stokes; claim: filed May 25th, 1852, rejected by the commission September 19th, 1854, and confirmed by the district court February 8th, 1858.

240, 327, S. D., 327. José Antonio Aguirre and Ignacio del Valle, claimants for Tejon, 22 square leagues, in Los Angeles and Buena Vista counties, granted November 24th, 1843, by Manuel Micheltorena to J. A. Aguirre and Ignacio del Valle; claim filed May 25th, 1852, confirmed by the commission May 8th, 1855, and by the district court March 15th, 1858.

241, 351, S. D., 375. Petronillo Rios, claimant for Paso de Robles, 6 square leagues, in San Luis Obispo county, granted May 12th, 1844, by Manuel Micheltorena to Pedro Narvaez; claim filed May 25th, 1852, confirmed by the commission July 3d, 1855, and appeal dismissed February 21st, 1857; containing 25,993.18 acres.

242, 57, S. D., 504. Juana Tico de Rodriguez, et al., heirs of Ramon Rodriguez, claimants for Cañada de San Miguelito and Canada del Diablo, 2 square leagues, in Santa Barbara county, granted March 21st, 1846, by Pio Pico to Ramon Rodriguez; claim filed May 26th, 1852, rejected by the commission December 13th, 1853, confirmed by the district court January 7th, 1856, and appeal dismissed February 5th, 1856; containing 877.04 acres.

243, 32, N. D., 154. George C. Yount, claimant for Caymus, 2 square leagues, in Napa county, granted February 23d, 1836, by Nicolas Gutierrez to Geo. C. Yount; claim filed May 26th, 1852. confirmed by the commission February 8th, 1853, by the district court July 17th, 1855, and appeal dismissed February 23d, 1857; containing 11,886.63 acres.

244, 211, N. D. Liberata Ceseña Bull et al., heirs of "William Fisher, claimants for La Laguna Seca, 4 square leagues, in Santa Clara county, granted July 23d, 1834, by José Figueroa to Juan Alvarez; claim filed May 27th, 1852, confirmed by the commission

September 26th, 1853, by the district court July 17th, 1855, and appeal dismissed January 14th, 1857; containing 19,972.92 acres.

245, 331, N. D. Pedro J. Vasquez, claimant for part of Soulajule, 12 square leagues, in Marin county, granted March 29th, 1844, by Manuel Micheltorena to Ramon Mesa; claim filed May 27th, 1852, rejected by the commission April 17th, 1855, confirmed by the district court March 3d, 1856, and appeal dismissed August 7th, 1857; containing 4,473.71 acres.

246, 352, N. D. Luis D. Watkins, claimant for part of Soulajule,  $2\frac{3}{4}$  square leagues, in Marin county, granted March 29th, 1844, by Manuel Micheltorena to Ramon Mesa; claim filed May 27th, 1852, rejected by the commission April 17th, 1855, confirmed by the district court March 3d, 1856, and appeal dismissed August 7th, 1857; containing 919.18 acres.

247, 334, N. D. Martin F. Gornley, claimant for part of Soulajule, one-half square league, in Marin county, granted March 29th, 1844, by Manuel Micheltorena to Ramon Mesa; claim filed May 27th, 1852, rejected by the commission April 17th, 1855, confirmed by the district, court March 3d. 1856, and appeal dismissed March 7th, 1857; containing 2,266.25 acres.

248, 331, N. D. Charles Covillaud, claimant for New Helvetia, part of 11 leagues first granted, in Yuba and Sutter counties, granted July 18th, 1841, by Juan B. Alvarado, and 1845. by Manuel Micheltorena, to John A. Sutter; claim filed May 31st, 1852, confirmed by the commission

May 22d, 1855, and by the district court April 10th, 1858.

249, 140, N. D. Mariano Guadalupe Vallejo, claimant for Yulupa, 3 square leagues, in Sonoma county, granted November 23d, 1844, by Manuel Micheltoarena to Miguel Alvarado; claim filed May 31st, 1852, rejected by the commission May 10th, 1854, confirmed by the district court January 21st, 1857, decree reversed by the U. S. supreme court and cause remanded for further evidence, in 22 Howard [63 U. S.] 416.

250, 321, N. D., 306. Mariano Guadalupe Vallejo, claimant for Petaluma, 10 square leagues, in Sonoma county, granted October 22d, 1843, by Manuel Micheltoarena to M. G. Vallejo, (grant) and 5 square leagues, June 22d, 1844, by Manuel Micheltoarena to M. G. Vallejo (sale by the government); claim filed May 31st, 1852, confirmed by the commission May 22d, 1855, by the district court March 16th, 1857, and appeal dismissed July 3d, 1857; containing 66,622.17 acres.

251, 326, N. D. Guadalupe Vasquez de West et al., claimants for San Miguel, 6 square leagues, in Sonoma county, granted November 2d, 1840, by Juan B. Alvarado, and October 14th, 1844, by Manuel Micheltoarena, to Marcus West; claim filed May 31st, 1852, rejected by the commission April 24th, 1855, confirmed by the district court June 2d, 1857, and decree confirmed by the U. S. supreme court for one league and a half, in 22 Howard [63 U. S.] 315.

252, 58, N. D., 362. Joaquin Carrillo, claimant for Llano de Santa Rosa, 3 square leagues, in Sonoma county, granted March 29th, 1844, by Manuel Micheltoarena to Marcus West; claim filed May 31st, 1852, confirmed by the commission October 21st, 1853, by the district court March 24th, 1856, and appeal dismissed January 13th, 1857; containing 13,336.55 acres.

253, 358, S. D., 579. J. J. Warner, claimant for Camajal y El Palomar, 4 square leagues, in San Diego county, granted August, 1846, by Pio Pico to Juan J. Warner; claim filed May 31st, 1852, rejected by the commission July 17th, 1855, and by the district court September 14th, 1860.

254, 219, S. D., 228, 407. J. J. Warner, claimant for Agua Caliente or Valle de San Jose, 6 square leagues, in San Diego county, granted January 8th, 1840, by Juan B. Alvarado to José Antonio Pico, and November 28th, 1844, by Manuel Micheltoarena to Juan J. Warner; claim filed May 31st, 1852, confirmed by the commission October 10th, 1854, by the district court February 6th, 1856, and appeal dismissed February 24th, 1857; containing 26,629.88 acres.

255, 298, N. D., 340. Charles M. Weber, claimant for Campo de los Franceses, 11 square leagues, in San Joaquin county, granted June 13th, 1844, by Manuel Micheltoarena to Guillermo Gulnack; claim filed May 31st, 1852, confirmed by the commission April 17th, 1855, by the district court May 1st, 1857, and by the U. S. supreme court; containing 48,747.03 acres. Patented.

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256, 234, N. D., 300. José Joaquin Estudillo, claimant for San Leandro, 1 square league, in Alameda county, granted October 16th, 1842, by Juan B. Alvarado to Joaquin Estudillo; claim filed May 31st, 1852, confirmed by the commission January 9th, 1855, by the district court May 7th, 1857, and by the U. S. supreme court; containing 7,010.84 acres.

257, 97, N. D. Mariano Castro, claimant for Rancho del Refugio or Pastoria de las Borregas, 2 square leagues, in Santa Clara county, granted June 15th, 1842, by Juan B. Alvarado to Francisco Estrada; claim filed May 31st, 1852, confirmed by the commission January 23d, 1854, by the district court November 23d, 1859, and by the U. S. supreme court.

258, 119, N. D., 358. Tomas Pacheco and Agustin Alviso, claimants for Potrero de los Cerritos, 3 square leagues, in Alameda county, granted March 23d, 1844, by Manuel Micheltoarena to T. Pacheco and A. Alviso; claim filed May 31st, 1852, confirmed by the commission February 14th, 1854, by the district court October 29th, 1855, and by the U. S. supreme court; containing 10,610.26 acres.

259, William Reynolds and Daniel Frink, claimants for part of Nicasia, 2½ square leagues, in Marin county, granted August 1st, 1844, by Manuel Micheltoarena to Pablo de la Guerra and Juan Cooper; claim filed June 2d, 1852 (see No. 270).

260, 342, N. D., 234. Isaac Graham et al., claimants for Zayanta, 1 league by one-half, in Santa Cruz county, granted April 22d, 1841, by Juan B. Alvarado to Juan José Crisostomo Mayor; claim filed June 4th, 1852, confirmed by the commission June 26th, 1855, and appeal dismissed; containing 2,514.64 acres.

261, 360, N. D., 311. James M. Harbin et al., claimants for Rio de Jesus Maria, 6 square leagues, in Yolo county, granted October 23d, 1843, by Manuel Micheltoarena to Tomas Hardy; claim filed June 8th, 1852, confirmed by the commission June 26th, 1855, by the district court March 23d, 1857, and appeal dismissed May 8th, 1857; containing 26,637.42 acres. Patented.

262, 114, S. D., 467. T. W. Sutherland, guardian of the minor children of Miguel Pedrorena, claimants for El Cajon, 11 square leagues, in San Diego county, granted September 23d, 1845, by Pio Pico to Maria Antonia Estudillo de Pedrorena; claim filed June 10th, 1852, confirmed by the commission March 14th, 1854, by the district court September 28th, 1855, and by the U. S. supreme court in 19 Howard [60 U. S.] 363; containing 48,794.03 acres.

263, 82, S. D., 495. T. W. Sutherland, guardian of the minor children of Miguel Pedrorena, claimants for San Jacinto Nuevo and Potrero, in San Diego county, granted January 14th, 1846, by Pio Pico to Miguel Pedrorena; claim filed June 10th, 1852, rejected by the commission December 27th, 1853, confirmed by the district court December 24th, 1855, and appeal dismissed February 23d, 1857.

264, 254, S. D. W. E. P. Hartnell, claimant for part of the Alizal, two-thirds square league, in Monterey county, granted January 26th, 1834, by José Figueroa to Guillermo Eduardo Hartnell; claim filed June 10th, 1852, confirmed by the commission October 31st, 1854, by the district court October 3d, 1855, and appeal dismissed February 8th, 1857; containing 2,971.26 acres.

265, 241, S. D. Maria Antonia de la Guerra y Lataillade, claimant for La Zaea, in Santa Barbara county, granted, 1838, by Juan B. Alvarado to Antonio; claim filed June 10th, 1852, confirmed by the commission November 14th, 1854, by the district court January 25th, 1856, and appeal dismissed February 5th, 1857; containing 4,480 acres.

266, 115, S. D., 409. Agustin Yansens, claimant for Lomas de la Purificacion, 3 square leagues, in Santa Barbara county, granted December 27th, 1844, by Manuel Micheltorena to A. Yansens; claim filed June 10th, 1852, confirmed by the commission November 14th, 1854, by the district court October 3d, 1855, and appeal dismissed February 5th, 1857; containing 13,341.49 acres.

267, 170, N. D., 370. Antonio Maria Pico and Henry M. Naglee, claimants for El Pescadero, 8 square leagues, in San Joaquin county, granted November 28th, 1843, by Manuel Micheltorena to Antonio Maria Pico; claim filed June 10th, 1852, rejected by the commission September 19th, 1854, confirmed by the district court

September 2d, 1856, and by the U. S. supreme court; containing 35,546.39 acres.

268, 218, N. D., 578. Josefa Carrillo de Fitch et al., heirs of Henry D. Fitch, claimants for Paraje del Arroyo, one-half square league, at Presidio San Francisco, granted July 24th, 1846, by Pio Pico to Henry D. Fitch and Francisco Guerrero; claim filed June 10th, 1852, rejected by the commission November 7th, 1854, and by the district court December 10th, 1857.

269, 275, N. D., 136. Encarnacion Mesa et al., claimants for San Antonio, 1 square league, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Prado Mesa; claim filed June 11th, 1852, confirmed by the commission January 30th, 1855, by the district court March 10th, 1856, and appeal dismissed March 13th, 1857; containing 898.41 acres.

270, 392, N. D., 420. Henry W. Halleck and James Black, claimants for Nicasia, 10 square leagues, in Marin county, granted August 18th, 1844, by Manuel Micheltorena to Pablo de la Guerra and Juan Cooper; claim filed June 14th, 1852, confirmed by the commission September 25th, 1855, by the district court March 9th, 1857, and appeal dismissed April 30th, 1857; containing 56,621.04 acres.

271, 333, S. D. Joaquin Gutierrez, claimant for El Potrero de San Carlos, 1 square league, in Monterey county, granted October 28th, 1837, by Juan B. Alvarado to Fructuoso; claim filed June 14th, 1852, confirmed by the commission June 5th, 1855, and appeal dismissed June 8th, 1857; containing 4,306.98 acres.

272, 116, S. D., 211. Maria Merced Lugo de Foster et al., claimants for San Paseual, 3 square leagues in Los Angeles county, granted September 24th, 1840, by Juan B. Alvarado to Enrique Sepulveda and José Perez; claim filed June 14th, 1852, rejected by the commission February 14th, 1854, and dismissed for want of prosecution March 7th, 1860.

273, 98, N. D., 345. Antonio Maria Peralta, claimant for part of San Antonio, 2 square leagues, in Alameda county, granted August 16th, 1820, by Pablo V. de Sola to Luis Peralta; claim filed June 18th, 1852, confirmed by the commission February 7th, 1854, by the district court December 4th, 1855, and appeal dismissed October 20th, 1857; containing 16,067.76 acres.

274, 99, N. D. Ygnacio Peralta, claimant for part of San Antonio, 2 square leagues, in Alameda county, granted August 16th, 1820, by Pablo V. de Sola to Luis Peralta; claim filed June 18th, 1852, confirmed by the commission February 7th, 1854, by the district court January 13th, 1857, and appeal dismissed April 20th, 1857; containing 9,416.66 acres. Patented.

275, 315, S. D. Josefa Morales del Castillo Negrete, claimant for Santa Ana y Santa Anita, 6 square leagues, in San Joaquin county, granted April 15th, 1836, by Nicolas Gutierrez to Luis del Castillo Negrete; claim filed June 24th, 1852, rejected by the commis-

sion March 6th, 1855, and for failure of prosecution appeal dismissed December 17th, 1856.

276, 226, N. D., 227. Manuel Alvisu, claimant for Quito, 3 square leagues, in Santa Clara county, granted March 16th, 1841, by Juan B. Alvarado to José Z. Fernandez and José Noriega; claim filed June 28th, 1852, confirmed by the commission December 5th, 1853, by the district court January 20th, 1857, and appeal dismissed March 9th, 1857; containing 13,309.85 acres.

277, 239, N. D. Francisco Berreyesa et al., heirs of G. Berreyesa, claimants for part of the Bincon de los Esteros, described by boundaries, in Santa Clara county, granted February 10th, 1838, by Juan B. Alvarado to Ygnacio Alvisu; claim filed June 28th, 1852, confirmed by the commission December 26th, 1854, by the district court December 28th, 1857, and appeal dismissed February 18th, 1858.

278, 204, N. D., 114. Rafael Alvisu et al., claimants for part of the Rincon de los Esteros, described by boundaries, in Santa Clara county, granted February 10th, 1838, by Juan B. Alvarado to Ygnacio Alvisu; claim filed June 28th, 1852, confirmed by the commission December 26th, 1854, by the district court December 24th, 1857, and appeal dismissed February 20th, 1858; containing 2,200.19 acres.

279, 245, S. D. Juan Miguel Anzar, claimant for Vega del Rio del Pajaro, 8,000 acres, in Monterey county, granted April 17th, 1820, by Pablo V. de Sola to Antonio Maria Castro; claim filed June 28th, 1852, confirmed by the commission December 5th, 1854, by the district court December 12th, 1856, and appeal dismissed June 4th, 1857; containing 4,310.29 acres.

280, 427, N. D. City of San Francisco, claimant for 4 square leagues, granted in 1833 to the pueblo of San Francisco; claim filed July 2d, 1852, confirmed by the commission October 3d, 1854, and appeal dismissed March 30th, 1857.

281, 207, N. D. The executors and heirs of Agustin Iturbide, claimants for 400 square leagues, granted April 18th, 1835, to Agustin Iturbide; claim filed July 6th, 1852, rejected by the commission December 19th, 1854, dismissed by the district court January 8th, 1858, for want of jurisdiction, and decree affirmed by the U. S. supreme court in 22 Howard [63 U. S.] 290.

282, 221, N. D., 550. John Poland and J.L. Hornsby, claimants for Los Huecos, 9 square leagues, in Santa Clara county, granted May 6th, 1846, by Pio Pico to Luis Arenas and John Roland; claim filed July 6th, 1852, and rejected by the commission November 7th, 1854.

283, 90, N. D., 508. Pedro Sainsevain, claimant for La Cañada del Rincon, 2 square leagues, in Santa Cruz county, granted July 10th, 1843, by Pio Pico to Pedro Sainsevain; claim filed July 6th, 1852, confirmed by the commission January 17th, 1854, and appeal dismissed September 20th, 1854; containing 5,826.86 acres. Patented.



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284, 205, N. D., 278. Maria Antonia Martinez de Richardson et al., claimants for Pionole, 4 square leagues, in Contra Costa county, granted June 1st, 1842, by Juan B. Alvarado to Ygnacio Martinez; claim filed July 8th, 1852, confirmed by the commission October 24th, 1854, and appeal dismissed March 10th, 1857; containing 17,786.49 acres.

285, 29, N. D., 223, 309. Guillermo Castro, claimant for part of San Lorenzo, 600 varas square, in Alameda county, granted February 23d, 1841, by Juan B. Alvarado to G. Castro; and for San Lorenzo, 6 square leagues, in Alameda county, granted October 24th, 1843, by Manuel Micheltorena to G. Castro; claim filed July 8th, 1852, confirmed by the commission February 14th, 1853, by the district court, July 6th, 1855, and appeal dismissed January 16th, 1858; containing 26,717.43 acres.

286, 419, N. D. The mayor and common council of San José, claimants for land, described by boundaries, granted July 22d, 1778, by Felipe de Neve to pueblo of San José; claim filed July 14th, 1852, confirmed by the commission February 5th, 1856. and by the district court November 26th, 1859.

287, 426, N. D. Charles White and Isaac Brenham, trustees for C. White et al., claimants for land granted by Felipe de Neve to the mayor and common council of the city of San José; claim filed July 14th, 1852, and rejected by the commission February 5th, 1856.

288, 280, N. D. Joseph M. Miller, claimant for part of Llano de Santa Bosa, 1 square league, in Sonoma county, granted March 29th,

1844, by Manuel Micheltorena to Joaquin Carrillo; claim filed July 15th, 1852, rejected by the commission March 6th, 1858, and appeal dismissed April 21st, 1856.

289, 398, N. D., 472. Charles J. Brenham et al., claimants for Llano Seco, 4 square leagues, in Butte county, granted, provisionally, July 26th, 1844, by Manuel Micheltorena, and October 2d, 1845, by Pio Pico, to Sebastian Keyser; claim filed July 17th, 1852, rejected by the commission September 25th, 1855, confirmed by the district court May 26th, 1857, and appeal dismissed June 3d, 1859; containing 17,767.17 acres. Patented.

290, 70, S. D., 166. Vicente Cantua, claimant for Rancho Nacional, 2 square leagues, in Monterey county, granted April 4th, 1839, by Juan B. Alvarado to Vicente Cantua; claim filed July 17th, 1852, confirmed by the commission January 24th, 1854, by the district court January 26th, 1855, and appeal dismissed January 28th, 1857; containing 6,633.19 acres.

291, 318, N. D. M. G. Vallejo, claimant for Suscol, in Solano county, granted March 15th, 1843, by Manuel Micheltorena to M. G. Vallejo; claim filed July 17th, 1852, confirmed by the commission May 22d, 1855, and by the district court March 22d, 1860.

292, 238, N. D. Ellen E. White, claimant for part of the Bincon de los Esteros, 2,000 acres, in Santa Clara county, granted February 10th, 1838, by Juan B. Alvarado to Ygnacio Alvisu; claim filed July 19th, 1852, confirmed by the commission December 19th, 1853, by the district court December 28th, 1857, and appeal dismissed February 9th, 1858; containing 2,308.17 acres.

293, 137, N. D., 371. Hiram Grimes et al., claimants for El Pescadero, 8 square leagues, in San Joaquin county, granted November 28th, 1843, by Manuel Micheltorena to Valentin Higuera and Rafael Feliz; claim filed July 22d, 1852, rejected by the commission February 14th, 1854, confirmed by the district court April 11th, 1856, and appeal dismissed December 22d, 1856; containing 35,446.06 acres. Patented.

294, 270, N. D. James Noe, claimant for Island of Sacramento, 5 square leagues, granted March 15th, 1845, by Juan B. Alvarado to Roberto Ehvell; claim filed July 24th, 1852, rejected by the commission February 8th, 1855, confirmed by the district court November 15th, 1856, decree reversed by the U. S. supreme court, cause remanded and petition to be dismissed, in 23 Howard [64 U. S.] 312.

295, 390, N. D. Edward A. Breed et al., claimants for Mission of San Rafael, 16 square leagues, in Marin county, granted June 8th, 1846, by Pio Pico to Antonio Sufiol and Antonio Maria Pico; claim filed July 26th, 1852, and rejected by the commission September 11th, 1855.

296, 117, S. D., 11. Jose de la Guerra y Noriega, claimant for Las Posas, 6 square leagues, in Santa Barbara county, granted May 15th, 1834, by José Figueroa to José Carrillo; claim filed July 27th, 1852, confirmed by the commission February 28th, 1854, by the

district court December 18th, 1856, and appeal dismissed January 21st, 1858; containing 26,623.26 acres.

297, 325, S. D. Manuel Larios, claimant for 1 square league, in Monterey county, granted May 4th, 1839, by José Castro to M. Larios; claim filed August 5th, 1852, confirmed by the commission June 19th, 1855, and by the district court December 23d, 1858.

298, 374, N. D., 312. J. Jesus Peña et al., heirs of J. G. Peña, claimants for Tzabaco, 4 square leagues, in Sonoma county, granted October 14th, 1843, by Manuel Micheltoarena to José German Peña; claim filed August 5th, 1852, confirmed by the commission June 26th, 1855, by the district court March 9th, 1857, and appeal dismissed April 2d, 1857; containing 15,439.32 acres. Patented.

299, 364, S. D. Nicolas A. Den et al., claimants for San Marcos, 8 square leagues, in Santa Barbara county, granted June 8th, 1846, by Pio Pico to N. A. Den; claim filed August 11th, 1852, confirmed by the commission July 17th, 1855, and appeal dismissed June 8th, 1857; containing 35,573.10 acres.

300, 22, N. D., 408. Fernando Feliz, claimant for Sanel, 4 square leagues, in Mendocino county, granted November 9th, 1844, by Manuel Micheltoarena to F. Feliz; claim filed August 14th, 1852, rejected by the commission October 18th, 1853, confirmed by the district court January 14th, 1856, and appeal dismissed March 20th, 1857; containing 17,754.38 acres. Patented.

301, 322, N. D., 50. Domingo Peralta, claimant for half of San Ramon or Las Juntas, described by boundaries, in Contra Costa county, granted in 1833, by Jose Figueroa to Bartolo Pacheco and Mariano Castro; claim filed August 14th, 1852, confirmed by the commission May 15th, 1855, by the district court March 2d, 1857, and appeal dismissed January 5th, 1858.

302, 43, S. D., 189. José de Jesus Pico, claimant for Piedra Blanca, described by boundaries, in San Luis Obispo county, granted January 18th, 1840, by Juan B. Alvarado to José de Jesus Pico; claim filed August 14th, 1852, confirmed by the commission December 13th, 1853, by the district court September 25th, 1855, and appeal dismissed February 4th, 1857.

303, 376, N. D. James Murphy, claimant for Cazadores, 4 square leagues, in Sacramento county, granted December 22d, 1844, by Manuel Micheltoarena to Ernesto Bufus; claim filed August 14th, 1852, confirmed by the commission July 17th, 1855, by the district Court September 22d, 1856, decree reversed by the U. S. supreme court and cause remanded, with direction to dismiss the petition, 23 Howard [64 U. S.] 476.

304, 260, S. D., 577. Tomas Herrera and Geronimo Quintana, claimants for San Juan Capistrano del Camote, 10 sitios of 4,428 acres each, in San Luis Obispo county, granted July 11th, 1846, by Pio Pico to T. Herrera and G. Quintana; claim filed August 14th,

1852, rejected by the commission December 26th, 1854, and dismissed for failure of prosecution August 8th, 1860.

305, 44, S. D. Ygnacio Pastor, claimant for Las Milpitas, in Monterey county, granted May 5th, 1838, by Juan B. Alvarado to Y. Pastor; claim filed August 14th, 1852, confirmed by the commission December 5th, 1853, and by the district court August 28th, 1860.

306, 395, N. D., 366. Domingo Peralta, claimant for Cañada del Corte de Madera, in Santa Clara county, granted in 1833, by Jose Figueroa to D. Peralta and Maximo Martinez r claim filed August 14th, 1852, rejected by the commission October 2d, 1855, and confirmed by the district court April 6th, 1858.

307, 311. N. D. G. W. P. Bissell and William H. Aspinwall, claimants for Isla de la Yegua, or Mare Island, described by boundaries, in Sonoma county, granted October 31st, 1840, by Manuel Jimeno, and May 20th, 1841, by Juan B. Alvarado. to Victor Castro; claim filed August 30th, 1852, confirmed by the commission May 8th, 1855, and by the district court March 2d, 1857.

308, 9, S. D. Antonio Maria Lugo, claimant for San Antonio, in Los Angeles county, granted in 1810, by José Dario de Arguello, confirmed by Don Luis Arguello April 1st,

1823. extension granted by José M. Echeandia April 23d, 1827, and finally granted by Juan B. Alvarado, September 27th, 1838, to A. M. Lugo; claim filed August 30th, 1852, confirmed by the commission February 21st, 1853, by the district court December 3d, 1855, and appeal dismissed February 24th, 1857; containing 29,514.13 acres.

309, 212, S. D. Maria Antonia de la Guerra y Lataillade, claimant for El Alamo Pintado, 1 square league, in Santa Barbara county, granted August 16th, 1843, by Manuel Micheltorena to Marcelino; claim filed August 30th, 1852, rejected by the commission September 26th, 1854, and by the district court June 3d, 1857.

310, 401, N. D. Juana Briones de Miranda et al., heirs of Apolinario Miranda, claimants for Ojo de Agua de Figueroa, 100 varas square, in San Francisco county, granted November 16th, 1833, by José Sanchez to Apolinario Miranda; claim filed August 30th, 1852, rejected by the commission October 23d, 1855, and confirmed by the district court November 25th, 1858.

311, 188, N. D. Manuel Diaz, claimant for Sacramento, 11 square leagues, in Colusi county, granted May 18th, 1846, by Pio Pico to M. Diaz; claim filed August 30th, 1852, rejected by the commission October 31st, 1854, and by the district court March 15th, 1858.

312, 36, S. D., 513. Lewis T. Burton, claimant for Bolsa de Chemisal, in San Luis Obispo county, granted May 11th, 1837, by Juan B. Alvarado to Francisco Quijada; claim filed August 30th, 1852, rejected by the commission December 5th, 1853, confirmed by the district court December 21st, 1855, and appeal dismissed February 24th, 1857; containing 14,335 acres.

313, 347, N. D. Juan C. Galindo, claimant for Mission of Santa Clara, in Santa Clara county, granted June 10th, 1846, by José Maria del Ray (priest); claim filed August 30th, 1852, rejected by the commission June 12th, 1855, and confirmed by the district court October 21st, 1857.

314, 74, S. D., 130. Miguel Abila, claimant for San Miguelito, 2 square leagues, in San Luis Obispo, county, granted April 29th, 1846, by Pio Pico to M. Abila; claim filed August 31st, 1852, and rejected by the commission December 13th, 1853.

315, 70, N. D.; 199, S. D., (sent to N. D.) 298. Maria Antonio Pico et al., heirs of Simeon Castro, claimants for Punta del Año Nuevo, 4 square leagues, In Santa Cruz county, granted May 27th, 1842, by Juan B. Alvarado to Simeon Castro; claim filed August 31st, 1852, confirmed by the commission December 13th, 1853, by the district court December 4th, 1856, and appeal dismissed April 2d, 1856; containing 17,763.15 acres. Patented.

316, 12, S. D., 283. José del Carmen Lugo et al., claimants for San Bernardino, 8 square leagues, in San Bernardino county, granted June 21st, 1842, by Juan B. Alvarado to José del Carmen Lugo, José Maria Lugo, Vicente Lugo and Diego Sepulveda; claim

filed August 31st, 1852, confirmed by the commission February 21st, 1853, by the district court December 7th, 1855, and appeal dismissed February 18th, 1857; containing 35,509.41 acres.

317, 316, S. D., 528. Jonathan R. Scott and Benjamin Hays, claimant for La Cañada, 2 square leagues, in Los Angeles county, granted May 12th, 1843, by Manuel Micheltorena to Ygnacio Coronel; claim filed September 1st, 1852, confirmed by the commission April 3d, 1855, by the district court February 16th, 1857, and appeal dismissed June 4th, 1856; containing 5,832.10 acres.

318, 305, S. D., 71. Jacoba Feliz, claimant for San Francisco, in Santa Barbara and Los Angeles counties, granted January 22d, 1839, by Juan B. Alvarado to Antonio del Valle; claim filed September 2d, 1852, confirmed by the commission January 2d, 1855, and appeal dismissed June 8th, 1857; containing 48,813.58 acres.

319, 86, N. D., 387. John Bidwell, claimant for Los Ulpinos, 4 square leagues, in Solano county, granted November 20th, 1844, by Manuel Micheltorena to J. Bidwell; claim filed September 3d, 1852, confirmed by the commission January 2d, 1855, by the district court October 29th, 1855, and appeal dismissed March 21st, 1857; containing 17,726.44 acres.

320, 331, S. D. Robert B. Neligh, claimant for 6 square leagues, granted April 4th, 1846, by Pio Pico to José Castro; claim filed September 3d, 1852, confirmed by the commission May 8th, 1855, by the district court October 5th, 1859.

321, 359, N. D., 389. Joseph L. Folsom and Anna Maria Sparks, claimants for Rio de los Americanos, 8 square leagues, in Sacramento county, granted October 8th, 1844, by Manuel Micheltorena to Guillermo A. Leidesdorff; claim filed September 4th, 1852, confirmed by the commission June 12th, 1855, by the district court February 23d, 1857, and further appeal dismissed April 30th, 1857; containing 35,521.36 acres.

322, 207, S. D. Maria Antonia de la Guerra y Lataillade, claimant for Las Huertas, 1,300 varas square, in Santa Barbara county, granted July 26th, 1844, by Manuel Micheltorena to Francisco, Luis and Baymundo; claim filed September 4th, 1852, rejected by the commission September 26th, 1844, and by the district court June 3d, 1857.

323, 177, N. D. Julius Martin, claimant for part of Entre Napa or Rinconda de los Carnero, 1 mile square, in Solano county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed September 4th, 1852, rejected by the commission September 19th, 1854, confirmed by the district court September 7th, 1856, and appeal dismissed May 15th, 1857; containing 2,557.68 acres. Patented.

324, 83, S. D. José Antonio de la Guerra y Carrillo, claimant for Los Alamos, in Santa Barbara county, granted March 9th, 1839, by Juan B. Alvarado to J. A. de la Guerra y Carrillo; claim filed September 7th, 1852. confirmed by the commission January 17th,

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1854, by the district court January 7th, 1856, and appeal dismissed February 3d, 1857; containing 48,803.38 acres.

325, 84, S. D., 468. George W. Hamley, claimant for Guejito y Cañada de Palomia, 3 square leagues, in San Diego county, granted September 20th, 1845, by Pio Pico to José Maria Orosio; claim filed September 7th, 1852, confirmed by the commission January 24th, 1854, by the district court September 26th, 1855, and appeal dismissed February 5th, 1857.

326, 186, N. D., 363. William Forbes, claimant for La Laguna de los Gentiles or Caslamayome, 8 square leagues, in Sonoma county, granted March 20th, 1844, by Manuel Micheltorena to Eugenio Montenegro; claim filed September 7th, 1852, and rejected by the commission September 26th, 1854.

327, 118, S. D., 58. Anastasio Carrillo, claimant for Punta de la Concepcion, in Santa Barbara county, granted May 10th, 1837, by Juan B. Alvarado to A. Carrillo; claim filed September 7th, 1852, rejected by the commission February 14th, 1854, confirmed by the district court October 20th, 1855, and appeal dismissed February 5th, 1857; containing 24,992.04 acres.

328, 20, S. D., 475. Anastasio Carrillo, claimant for Cieneguita, 400 varas square, in Santa Barbara county, granted October 10th,

1845, by Pio Pico to A. Carrillo; claim filed September 7th, 1852, confirmed by the commission March 14th, 1853, and by the district court January 12th, 1857.

329, 85, S. D., 222. Gil Ybarra, claimant for Bincon de la Brea. 1 square league, in Los Angeles county, granted February 23d, 1841, by Juan B. Alvarado to G. Ybarra; claim filed September 9th, 1852, confirmed by the commission December 20th, 1852, by the district court October 11th, 1855, and appeal dismissed February 24th, 1857; containing 4,452.59 acres.

330, 226, S. D. Victoria Dominguez et al., heirs of José Antonio Estudillo, claimants for Otay, 1 square league, in San Diego county, granted March 24th, 1829, by José M. Echeandia to J. A. Estudillo; claim filed September 9th, 1852, confirmed by the commission December 19th, 1854, and appeal dismissed June 8th, 1857.

331, 22, S. D., 453. Henry Dalton, claimant for San Francisquito, 2 square leagues, in Los Angeles county, granted May 26th, 1845, by Pio Pico to H. Dalton; claim filed September 10th, 1852, confirmed by the commission April 11th, 1853, rejected by the district court December 3d, 1855, decree reversed by the U. S. supreme court, and claim confirmed, in 22 Howard [63 U. S.] 436.

332, 195, S. D., 325. José Joaquin Ortega et al., claimants for Valle de Pamo, 4 square leagues, in San Diego county, granted November 25th, 1843, by Manuel Micheltorena to J. J. Ortega and Eduardo Stokes; claim filed September 10th, 1852, rejected by the commission September 19th, 1854, and confirmed by the district court February 8th, 1858.

333, 332, S. D., 168. Charles M. Weber, claimant for Cañada de San Felipe y Las Animas, 2 square leagues, in Santa Clara county, granted August 17th, 1839, by Manuel Jimeno to Tomas Boun; claim filed September 11th, 1852, confirmed by the commission May 8th, 1855, by the district court January 21st, 1857, and appeal dismissed March 4th, 1858; containing 8,787.80 acres.

334, 80, N. D. Joseph P. Thompson, claimant for part of Entre Napa, 1 square league, in Napa county, granted May 9th, 1836, by Mariano Chieo to Nicolas Higuera; claim filed September 11th, 1852, confirmed by the commission December 13th, 1853, by the district court January 14th, 1856, and appeal dismissed September 2d, 1857.

335, 217, N. D., 452. Cayetano Jaures, claimant for Yokaya; 8 square leagues, in Mendocino county, granted May 24th, 1845, by Pio Pico to C. Juares; claim filed September 11th, 1852, and rejected by the commission November 7th, 1854.

336, 104, N. D., 23. Juan José Gonzales, claimant for San Antonio or El Pescadero, three-fourths square league, in Santa Cruz county, granted December 24th, 1833, by José Figueroa to J. J. Gonzales; claim filed September 11th, 1852, confirmed by the commission January 31st, 1854, by the district court October 29th, 1855, and decree affirmed by the U. S. supreme court in 22 Howard [63 U. S.] 161; containing 3,282.22 acres.



337, 152, N. D. Mariano G. Vallejo, claimant for part of Entre Napa, 300 varas square, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed September 11th, 1852. rejected by the commission January 27th, 1854, and for failure of prosecution appeal dismissed April 21st, 1856.

338, 30, S. D.. 426. David W. Alexander and Francis Melius, claimants for Provideucia, 1 square league, in Los Angeles county, granted March 23d, 1843, by Manuel Micheltoarena to Vicente de la Osa; claim filed September 11th, 1852, and confirmed by the commission October 18th, 1853.

339, 194, S. D., 335. Samuel Carpenter, claimant for Santa Bertrudes, 5 square leagues, in Los Angeles county, granted May 22d, 1834, by José Figueroa to Josefa Cota de Nieto; claim filed September 11th, 1852, confirmed by the commission September 12th, 1854, by the district court January 21st, 1857, and appeal dismissed March 4th, 1858.

340, 132, N. D., 294. Charles Fossat, claimant for Los Capitancillos, three-fourths square league, in Santa Clara county, granted September 1st, 1842, by Juan B. Alvarado to Justo Larios; claim filed September 13th, 1852, confirmed by the commission February 28th, 1854, by the district court August 17th, 1857, decree reversed by the T.J. S. supreme court and cause remanded, 20 Howard [61 U. S.] 413, and decision of the U. S. supreme court on the survey, 21 Howard [62 U. S.] 445; containing 3,360.48 acres.

341, 203, S. D., 390, 545. Luis Vignes, claimant for Pauba, 6 square leagues, in San Diego county, granted November 9th, 1844. by Manuel Micheltoarena to V. Morago, and February 4th, 1846, by Pio Pico, to Vicente Mora-ga and Luis Arenas; claim filed September 13th, 1852, confirmed by the commission May 2d, 1854, by the district court February 7th, 1857, and appeal dismissed March 1st, 1858; containing 26,597.96 acres. Patented.

342, 6, S. D., 398. Luis Vignes, claimant for Temecula, 6 square leagues, in San Diego county, granted December 14th, 1844, by Manuel Micheltoarena to Feliz Valdez; claim filed September 13th, 1852, rejected by the commission March 14th, 1854, confirmed by the district court September 21st, 1855, and appeal dismissed October 18th, 1855; containing 26,608.94 acres. Patented.

343, 86, S. D., 240, 436. Henry Dalton, claimant for Santa Anita, 3 square leagues, in Los Angeles county, granted provisionally April 16th, 1841, by Juan B. Alvarado, and March 31st, 1845, finally by Pio Pico, to Perfecto Hugo Reid; claim filed September 14th, 1852, confirmed by the commission January 17th, 1854, by the district court October. 24th, 1855, and appeal dismissed February 23d, 1857; containing 13,319.06 acres.

344, 265, S. D., 1, 91. Maria Antonio Mechado, claimant for Los Virgenes, 2 square leagues, in Los Angeles county, granted April 6th, 1837, by Juan B. Alvarado to Jose Maria Dominguez; claim filed September 15th, 1852, confirmed by the commission

November 7th, 1854, by the district court February 23d, 1857, and appeal dismissed March 4th, 1858.

345, 173, S. D. 157. Manuel Garfias, claimant for San Pascual, 3½ square leagues, in Los Angeles county, granted November 28th, 1843, by Manuel Micheltoarena to M. Garfias; claim filed September 16th, 1852, confirmed by the commission April 25th, 1854, by the district court March 6th, 1856, and appeal dismissed February 23d, 1857: containing 13,693.93 acres.

346, 161, S. D., 425. Abel Stearns, claimant for La Laguna, 3 square leagues, in San Diego county, granted June 7th, 1844, by Manuel Micheltoarena to Julian Manriquez; claim filed September 18th, 1852, confirmed by the commission February 14th, 1854, by the district court February 14th, 1856, and appeal dismissed February 24th, 1857.

347, 217, S. D., 386. F. P. F. Temple and Juan Matias Sanchez, claimants for La Merced, 1 square league, in Los Angeles county, granted October 8th, 1844, by Manuel Micheltoarena to Casilda Soto; claim filed September 18th, 1852, confirmed by the commission October 14th, 1854, by the district court December

29th, 1856, and appeal dismissed March 4th, 1858; containing 2,363.75 acres.

348, 339, S. D. William Cary Jones, claimant for San Luis Rey and Pala, 12 square leagues, in San Diego county, granted May 18th, 1846, by Pio Pico to Antonio José Scott and José Antonio Pico; claim filed September 20th, 1852, confirmed by the commission June 12th, 1855, and by the district court April 1st, 1861.

349, 287, N. D. Leo Norris, claimant for part of San Ramon, 1 square league, in Contra Costa county, granted August 1st, 1834, by José Figueroa to José Maria Amador; claim filed September 20th, 1852, confirmed by the commission August 1st, 1854, and by the district court September 10th, 1857; containing 4,450.94 acres.

350, 156, N. D., 432. Thomas S, Page, claimant for Cotate, 4 square leagues, in Sonoma county, granted July 7th, 1844, by Manuel Micheltorena to Juan Castaueda; claim filed September 21st, 1852, confirmed by the commission August 27th, 1854, by the district court January 14th, 1856, and appeal dismissed March 21st, 1857; containing 17,238.60 acres. Patented.

351, 17, S. D. Juan Temple, claimant for Los Cerritos, 5 square leagues, in Los Angeles county, granted May 22d, 1834, by José Figueroa to Manuela Nieto; claim filed September 21st, 1852, confirmed by the commission April 11th, 1853, by the district court February 28th, 1857, and appeal dismissed January 12th, 1857.

352, 82, N. D. Francisco Sanchez, claimant for San Pedro, 2 square leagues, in San Mateo county, granted January 26th, 1839, by Juan B. Alvarado to F. Sanchez; claim filed September 22d, 1852, confirmed by the commission December 13th, 1853, and appeal dismissed March 20th, 1857; containing 8,926.46 acres.

353, 169, S. D., 37, 402. Jacob P. Leese, claimant for Punta de Pinos, described by boundaries, in Monterey county, granted May 24th, 1833, by José Figueroa to José Maria Armenta, and October 4th, 1844, by Manuel Micheltorena to José Abrego; claim filed September 22d, 1852, confirmed by the commission June 13th, 1854, and February 8th, 1855.

354, 269, N. D., 217. Candelario Miramontes, claimant for Arroyo de los Pilarcitos, 1 square league, in Santa Clara county, granted January 2d, 1841, by Juan B. Alvarado to C. Miramoijtes; claim filed September 22d, 1852, confirmed by the commission February 6th, 1855, by the district court February 16th, 1857, and appeal dismissed March 21st, 1857; containing 4,424.12 acres.

355, 67, S. D. Salvador Espinoza, claimant for Bolsa de las Escorpinas, 2 square leagues, in Monterey county, granted October 7th, 1837, by Juan B. Alvarado to S. Espinoza; claim filed September 22d, 1852, confirmed by the commission December 28th, 1853, by the district court September 24th, 1855, and appeal dismissed February 24th, 1857; .containing 6,415.96 acres.

356, 42, S. D., 376. Francisco Arce, claimant for Santa Ysabel, 4 square leagues, in San Luis Obispo county, granted May 12th, 1844, by Manuel Micheltorena to F. Arce; claim filed September 22d, 1852, rejected by the commission December 13th, 1853, and confirmed by the district court January 12th, 1857.

357, 184, N. D. Andres Pico, claimant for Moquelamo, 11 square leagues, in Calaveras county, granted June 6th, 1846, by Pio Pico to A. Pico; claim filed September 22d, 1852, rejected by the commission September 26th, 1854, confirmed by the district court April 24th, 1857, decree reversed by the U. S. supreme court and cause remanded for further evidence, in 22 Howard [63 U. S.] 406.

358, 89, N. D., 259. Salvador Castro, claimant for part of San Gregorio, 1 square league, in Santa Cruz county, granted April 6th, 1839, by Juan B. Alvarado to Antonio Buelna; claim filed September 22d, 1852, rejected by the commission December 27th, 1853, confirmed by the district court January 14th, 1856, and appeal dismissed July 23d, 1857; containing 4,439.31 acres. Patented.

359, 350, N. D. José Antonio Alvisu, claimant for Cañada de Verde y Arroyo de la Purisima, 2 square leagues, in Santa Cruz county, granted April 25th, 1838, by Juan B. Alvarado to José Maria Alvisu; claim filed September 22d, 1852, confirmed by the commission July 10th, 1855, by the district court March 9th, 1857, decision of the U. S. supreme court as to the right of appeal, 20 Howard [61 U. S.] 261, and decree of confirmation affirmed by the U. S. supreme court. 23 Howard [64 U. S.] 318; containing 8,905.58 acres.

360, 23, S. D., 380. José Maria Aguila, claimant for Cañada de los Nogales, one-half square league, in Los Angeles county, granted August 30th, 1844, by Manuel Micheltorena to J. M. Aguila; claim filed September 25th, 1852, confirmed by the commission April 11th, 1853, by the district court January 21st, 1856, and appeal dismissed February 21st, 1857.

361, 213, S. D., 196, 203. Juan Bandini, claimant for Jurupa, 7 square leagues, in San Bernardino county, granted September 28th, 1838, by Juan B. Alvarado to J. Bandini; claim filed September 25th, 1852, confirmed by the commission October 17th, 1854, and by the district court April 5th, 1861.

362, 120, S. D., 214. Isaac J. Sparks, claimant for Pismo, 2 square leagues, in San Luis Obispo county, granted November 18th, 1840, by Manuel Jimeno to José Ortega; claim filed September 29th, 1852, confirmed by the commission March 21st, 1854, by the district court December 24th, 1856, and appeal dismissed March 1st, 1858; containing 8,838.89 acres.

363, 69, S. D., 321. Isaac J. Sparks, claimant for Huasna, 5 square leagues, in San Luis Obispo county, granted December 8th, 1843, by Manuel Micheltorena to I. J. Sparks; claim filed September 29th, 1852, confirmed by the commission March 21st, 1854, by

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the district court January 8th, 1857, and appeal dismissed March 1st, 1858; containing 21,422.08 acres.

364, 121, S. D. Henry Dalton, claimant for Azusa, 3 square leagues, in San Bernardino county, 2 leagues granted by Juan B. Alvarado”, one under the name of San José to Ignacio Palomares and Ricardo Vejar April 15th, 1837, with another to same grantees by Luis Arenas under the name of Azusa March 14th, 1840, and a third one by Manuel Jimeno to Luis Arenas November 8h, 1841; claim filed September 29th, 1852, confirmed by the commission January 21st, 1854. by the district court March 6th, 1855, and appeal dismissed June 4th, 1857; containing 27,151.327 acres.

365, 122, S. D. Ygnacio Palomares, claimant for part of San José, 2 square leagues, in San Bernardino county, granted April 15th, 1837, by Juan B. Alvarado to Y. Palomares; claim filed September 29th, 1852, confirmed by the commission January 31st, 1854, by the district court February 4th. 1856, and appeal dismissed February 23d, 1857.

366, 420, N. D. Andres Castillero, claimant for the quicksilver mine New Almaden, formerly called Santa Clara, discovered by him in 1845, in Santa Clara county, with two leagues of land granted to him by the president of Mexico, May 23d, 1846.” Possession of the mine was given by the alcalde, Antonio Maria Pico, December 13th, 1845, with 3,000 varas of land in all directions from the mouth of the mine. Claim filed September 30th, 1852. The commission, on the eighth of January, 1856, confirmed

the grant of 3,000 varas, and rejected all other claims. On the ground of fraud, the United States, on the twenty-ninth of October, 1858, obtained an injunction from the United States circuit court to stop the working of the mine. On the eighth of January, 1861, the district court, rejecting all claims to land, confirmed the mining rights, with seven pertinencias for mining purposes; and all shadow of fraud having been dispelled, the injunction was dissolved, on the twenty-sixth of January, 1861. [The pertinencia varies from 112½ to 200 varas square, according to the inclination of the vein.]

367, 157, N. D. Gervesio Arguello, executor of the heirs of José Dario Arguello, claimants for Las Pulgas, described by boundaries, in San Mateo county, granted in 1795, by Diego Borica to José Dario Arguello; claim filed September 30th, 1852, rejected by the commission August 1st, 1854, and for failure of prosecution appeal dismissed April 21st, 1856.

368, 305, S. D., 519. Benj. D. Wilson et als., claimants for San Jose de Buenos Ayres, 1 square league, in Los Angeles county, granted February 24th, 1843, by Manuel Micheltorena to Maximo Alanis; claim filed October 2d, 1852, confirmed by the commission February 20th, 1855, by the district court February 18th, 1857, and appeal dismissed June 4th, 1857; containing 4,438.69 acres.

369, 123, S. D., 184. Agustin Machado et al., claimants for Ballona, 1 square league, in Los Angeles county, granted November 27th, 1839, by Juan B. Alvarado to Agustin Machado et al.; claim filed October 2d, 1852, confirmed by the commission February 14th, 1854, by the district court December 19th, 1855, and appeal dismissed January 28th, 1857; containing 13,919.90 acres.

370, 214, S. D. Leon Victor Prudhomme, administrator, claimant for Cucamonga 3 square leagues, in San Bernardino county, granted April 16th, 1839, by Juan B. Alvarado to Tiburcio Tapia; claim filed October 2d, 1852, rejected by the commission October 17th, 1854, and confirmed by the district court December 31st, 1856.

371, 309, S. D. Anacleto Lestrade, claimant for Rosa de Castillo, described by boundaries, in Los Angeles county, granted June 25th, 1831, by Manuel Vittoria to Juan Ballestero; claim filed October 2d, 1852, rejected by the commission April 3d, 1855, and for failure of prosecution appeal dismissed December 17th, 1856.

372, 353, S. D. Januario Abila, claimant for Las Cienegas, 1 square league, in Los Angeles county, granted in 1823, by José de la Guerra y Noriega and Manuel Micheltorena to Francisco Abila; claim filed October 4th, 1852, confirmed by the commission June 26th, 1855, and appeal dismissed June 8th, 1857; containing 4,439.05 acres.

373, 87, S. D., 61. Pio Pico et al., claimants for Paso de Bartolo Viejo, 2 square leagues, in Los Angeles county, granted June 12th, 1835, by José Figueroa to Juan Crispin Perez; claim filed October 4th, 1852, confirmed by the commission December 27th, 1853, by the district court February 4th, 1856, and appeal dismissed February 24th, 1857.

374, 46, S. D., 236. Andres Duarte, claimant for Azusa, 1½ square leagues, in Los Angeles county, granted May 10th, 1841, by Juan B. Alvarado to A. Duarte; claim filed October 6th, 1852, confirmed by the commission November 4th, 1853, by the district court September 19th, 1855, and appeal dismissed February 23d, 1857; containing 6,595.62 acres.

375, 124, S. D., 464. Agustin Olvera, claimant for Cuyamaca, 11 square leagues, in San Diego county, granted August 11th, 1845, by Pio Pico to A. Olvera; claim filed October 6th, 1852, rejected by the commission April 4th, 1854, and confirmed by the district court March 15th, 1858.

376, 235, S. D., 257. Daniel Sexton, claimant for 1,000 varas square, in Los Angeles county, granted November 5th, 1841, by Manuel Jimeno to José Maria Bamirez; claim filed October 6th, 1852, confirmed by the commission October 10th, 1854, by the district court December 28th, 1856, and appeal dismissed March 4th, 1858.

377, 259, S. D. Daniel Sexton, claimant for 500 varas square, in Los Angeles county, granted May 19th, 1842, by Juan B. Alvarado to Vicente de la Osa; claim filed October 6th, 1852, confirmed by the commission November 14th, 1854, by the district court February 27th, 1856, and appeal dismissed February 24th, 1857.

378, 343, S. D. Bulogio de Celis, claimant for Mission of San Fernando, 14 square-leagues, in Los Angeles county, granted June-17th, 1846, by Pio Pico to E. de Celis; claim filed October 7th, 1852, confirmed by the commission July 3d, 1855, and appeal dismissed March 15th, 1858; containing 121,619.24 acres.

379, 292, N. D.; 392 S. D., (sent to the Southern district February 23d, 1857) 458. Vicente de la Osa et al., claimants for Encino, 1 square league, in Los Angeles county, granted July 8th, 1845, by Pio Pico to Ramon, Francisco and Eoque; claim filed October 8th, 1852, and confirmed by the commission March 20th, 1855.

380, 378, S. D. Juan Bandini, claimant for Cajon de Museupiabe, described by boundaries, in Los Angeles county, granted December 18th, 1839, by Juan B. Alvarado to J. Bandini; claim filed October 8th, 1852, rejected by the commission January 8th, 1856, and for failure-of prosecution appeal dismissed December 22d, 1856.

381, 125, S. D., 382, 394. Bruno Abila. claimant for Aguage del Centinela, one-half square league, in Los Angeles county, granted September 14th, 1844, by Manuel Micheltoarena to Ygnacio Machado; claim filed October 8th., 1852, confirmed by the commission March 21st, 1854, and by the district court February 21st, 1856.

382, 126, S. D. Bernardo Yorba, claimant for La Sierra, 4 square leagues, in San Bernardino county, granted June 15th, 1816, by Pio Pico to B. Yorba; claim filed October 9th. 1852, rejected by the commission February 14th, 1854, and confirmed by the district court January 22d, 1857.

383, 88, S. D., 195. Maria de Jesus Garcia et al., claimant for Los Nogales, 1 square league in San Bernardino county, granted March 13th, 1840, by Juan B. Alvarado to José de la Cruz Linares; claim filed October 9th, 1852, confirmed by the commission January 17th, 1854, by the district court January 16th, 1857, and appeal dismissed March 4th, 1858; containing 464.72 acres.

384, 297, S. D. Bernardo Yorba, claimant for El Rincon, 1 square league, in San Bernardino county, granted April 8th, 1839, by Juan B. Alvarado to Juan Bandini; claim filed October 9th, 1852, confirmed by the commission February 13th, 1855, and by the district court February 11th, 1857; containing 4,431.47 acres.

385, 127, S. D., 270, 544. John Roland and Julian Workman, claimants for La Puente, described by boundaries, in Los Angeles and San Bernardino counties, granted July 22d, 1845, by Pio Pico to J. Boland and Julian Workman; claim filed October 9th, 1852, confirmed by the commission April 4th, 1854, and by the



district court February 24th, 1857; containing 48,790.55 acres.

386, 164, N. D. Sebastian Peralta and José Hernandez, claimants for Rinconada de los Gatos, 1½ square leagues, in Santa Clara county, granted May 21st, 1840, by Juan B. Alvarado to S. Peralta and J. Hernandez; claim filed October 9th, 1852, confirmed by the commission August 8th, 1854, by the district court March 10th, 1856, and appeal dismissed March 13th, 1856; containing 6,631.44 acres. Patented.

387, 89, S. D., 24. Bernardo Yorba. claimant for Cañada de Santa Ana, 3 square leagues, in Los Angeles county, granted August 1st, 1834, by José Figueroa to B. Yorba; claim filed October 9th, 1852, confirmed by the commission January 24th, 1854, by the district court October 9th, 1855, and appeal dismissed February 23d, 1857; containing 13,328.53 acres.

388, 128, S. D., 141. Ricardo Vejar, claimant for part of San José, described by boundaries, in San Bernardino county, granted April 15th, 1837, and March 14th, 1840, by Juan B. Alvarado to B. Vejar, Ignacio Palomares and Luis Arenas; claim filed October 9th, 1852, confirmed by the commission January 31st 1854, by the district court February 4th, 1856, and appeal dismissed February 21st, 1857; containing 22,720.28 acres.

389, 90, S. D., 140. Juan Sanchez, claimant for Santa Clara or El Norte, described by boundaries, in Santa Barbara county, granted May 6th, 1837, by Juan B. Alvarado to J. Sanchez; claim filed October 9th, 1852, confirmed by the commission January 24th, 1854, by the district court January 19th, 1857, and appeal dismissed March 4th, 1858; containing 13,988.91 acres.

390, 320, N. D., 18. Joaquin Ysidro Castro, administrator, claimant for San Pablo, 4 square leagues, in Contra Costa county, 3 leagues granted by José Figueroa, June 12th, 1834, to Francisco Castro, deceased, and to his heirs, and on the 13th the surplus lands to Joaquin Ysidro Castro and the heirs of Francisco Castro; claim filed October 9th, 1852, confirmed by the commission April 17th, 1855, by the district court February 24th, 1858, and appeal dismissed March 10th, 1858; containing 19,394.40 acres.

391, 167, S. D. Enrique Abila, claimant for Tajauta, 1 square league, in Los Angeles county, granted July 5th, 1843, by Manuel Micheltorena to Anastasio Abila; claim filed October 11th, 1852, confirmed by the commission August 22d, 1854, by the district court May 10th, 1856, and by the U. S. supreme court; containing 3,559.86 acres.

392, 129, S. D., 461. Urbano Odon and Manuel et al., claimants for El Escorpion, 1½square leagues, in Los Angeles county, granted August 7th, 1845, by Pio Pico to U. Odon and Manuel; claim filed October 11th, 1852, confirmed by the commission April 25th, 1854, by the district court May 6th, 1859.

393, 406, N. D., 329. Angel and Maria Chabolla, heirs of Anastasio Chabolla, claimants for Sanjon de los Moquelumnes, 8 square leagues, in Sacramento and San Joaquin counties, granted January 24th, 1844, by Manuel Micheltorena to A. Chabolla;

claim filed October 16th, 1852, rejected by the commission January 24th, 1854, and September 4th, 1855, confirmed by the district court May 10th, 1857, and by the U. S. supreme court; containing 35,509.97 acres.

394, 337, S. D., 438. Juan Foster, claimant for Potrereros de San Juan Capistrano, in Los Angeles and San Bernardino counties, granted April 5th, 1845, by Pio Pico to J. Foster; claim filed October 16th, 1852, confirmed by the commission June 26th, 1855, by the district court February 21st 1857, and appeal dismissed June 4th, 1857; containing 1,167.74 acres.

395, 228, S. D., 288, 541. Andres Ybarra, claimant for Los Encinitos, 1 square league, in San Diego county, granted July 3d, 1842, by Juan B. Alvarado to A. Ybarra; claim filed October 16th, 1852, confirmed by the commission October 31st 1854, by the district court October 16th, 1855, and appeal dismissed February 24th, 1857; containing 4,431.03 acres.

396, 250, S. D., 437. Juan Foster, claimant for Mission Vieja or La Paz, in Los Angeles county, granted April 4th, 1845, by Pio Pico to Agustin Olvera; claim filed October 16th, 1852, confirmed by the commission October 31st, 1854, by the district court February 21st 1857, and appeal dismissed June 4th, 1857; containing 46,432.65 acres.

397, 243, S. D., 439. Juan Matias Sanchez, claimant for Potrero Grande, 1 square league, in Los Angeles county, granted April 8th, 1845, by Pio Pico to Manuel Antonio; claim filed October 18th, 1852, confirmed by the commission October 24th, 1854, by the district court December 29th, 1856, and appeal dismissed March 4th, 1858; containing 4,431.96 acres. Patented.

398, 273, S. D. Manuel Dominguez et al., claimants for San Pedro, 10 square leagues, in Los Angeles county, granted December 31st, 1822, to Juan José Dominguez; claim filed October 19th, 1852, confirmed by the commission October 17th, 1854, by the district court December 20th, 1856, and appeal dismissed June 1st 1857; containing 43,119.13 acres. Patented.

399, 130, S. D., 285. Juan Abila et al., claimants for El Niguel, 3 square leagues, in Los Angeles county, granted June 21st, 1842, by Juan B. Alvarado to J. Abila et al.; claim filed October 19th, 1852, confirmed by the commission April 25th, 1854, by the district court February 25th, 1856, and appeal dismissed February 24th, 1857.

400, 372, S. D. Andres Pico et al., claimants for Los Coyotes, 10 square leagues, in Los Angeles county, granted in 1784, by Pedro Fajes to Manuel Nieto, and May 22d, 1834, by José Figueroa to Juan José Nieto, heir of Manuel Nieto; claim filed October 20th, 1852, confirmed by the commission September 25th, 1855, and by the district court February 18th, 1857; containing 56,979.72 acres.

401, 355, S. D., 181. Andres Pico et al., claimants for La Habra, 1½ square leagues, in Los Angeles county, granted October 22d, 1839, by Manuel Jimeno to Mariano R.

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Roldan; claim filed October 20th, 1852, confirmed by the commission July 3d, 1855, by the district court February 18th, 1857, and appeal dismissed March 4th, 1858; containing 6,698.57 acres.

402, 208, S. D. Ramon Yorba et al., claimants for one-half of Las Bolsas, described by boundaries, in Los Angeles county, granted in 1784 by Pedro Fajes to Manuel Nieto. and May 22d, 1834, by José Figueroa to Catarina Ruiz, widow of M. Nieto; claim filed October 20th, 1852, confirmed by the commission September 26th, 1854, by the district court February 17th, 1857, and appeal dismissed March 4th, 1858; containing 34,486.13 acres. (See No. 459.)

403, 381. S. D. Julio Berdugo et al., claimants for San Rafael, 8 square leagues, in Los Angeles county, granted October 20th, 1784, by Pedro Fajes, and confirmed by Borica January 12th, 1798, to José Maria Berdugo; claim filed October 21st 1852, confirmed by the commission September 11th, 1855, and appeal dismissed June 4th, 1857.

404, 290, S. D. Abel Stearns, claimant for Alamitos, 6 square leagues, in Los Angeles county, granted in 1784, by Pedro Fajes to Manuel Nieto, and May 22d, 1834, by José Figueroa to Juan José Nieto, heir of M. Nieto; claim filed

October 21st, 1852, confirmed by the commission February 13th, 1855, by the district court February 23d, 1857, and appeal dismissed March 4th, 1857; containing 17,789.79 acres.

405, 205, S. D., 244. Joaquin Ruiz, claimant for La Bolsa Chica, 2 square leagues, in Los Angeles county, granted July 1st, 1841, by Juan B. Alvarado to J. Ruiz; claim filed October 21st, 1852, confirmed by the commission September 26th, 1854, by the district court February 13th 1857, and appeal dismissed June 4th, 1857; containing 8,107.46 acres.

406, 185, S. D., 279. José Sepulveda, claimant for San Joaquin, 11 square leagues, in Los Angeles county, being La Cienega de las Ranas, granted April 15th, 1837, and an augmentation granted May 13th, 1842, by Juan B. Alvarado to J. Sepulveda; claim filed October 22d, 1852, confirmed by the commission April 25th, 1854, by the district court December 11th, 1856, and appeal dismissed January 21st, 1858; containing 48,803.16 acres.

407, 367, S. D., 493. Pio Pico, claimant for Janual, 2 square leagues, in San Diego county, granted April 20th, 1831, by Manuel Vittoria to Pio Pico; claim filed October 22d, 1852, rejected by the commission April 25th, 1855, and by the district court March 5th, 1858.

408, 62, S. D. Antonio Valenzuela and Juan Alvitre, claimants for Potrero de la Misión Vieja de San Gabriel, 1,000 varas by 500, in Los Angeles county, granted November 9th, 1844, by Manuel Micheltorena to J. Alvitre and A. Valenzuela; claim filed October 23d, 1852, confirmed by the commission December 13th, 1853, by the district court January 25th, 1856, and appeal dismissed February 24th, 1857.

409, 131, S. D. Francisco Higuera et al., claimants for Rincon de los Bueyes, three-fifths square league, in Los Angeles county, granted December 7th, 1821, by José de la Guerra y Noriega, and July 10th, 1843, by Manuel Micheltorena, to Bernardo Higuera; claim filed October 23d, 1852, rejected by the commission February 28th, 1854, and confirmed by the district court April 16th, 1861.

410, 363, S. D. Juan Foster, claimant for Mission of San Juan Capigtrano, in Los Angeles county, granted December 6th, 1845, by Pio Pico to J. Foster; claim filed October 23d, 1852, confirmed by the commission July 17th, 1855, and appeal dismissed February 1st, 1858.

411, 238, S. D., 295. Juan Maria Marron, claimant for Agua Hedionda, 3 square leagues, in San Diego county, granted August 10th, 1842, by Juan B. Alvarado to J. M. Marron; claim filed October 23d, 1852, confirmed by the commission October 24th, 1854, by the district court October 6th, 1855, and appeal dismissed February 24th, 1859; containing 13,311.01 acres.

412, 216, S. D., 247. Juan Foster, claimant for Trabuco, 5 square leagues, in Los Angeles county, 2 leagues provisionally granted February 16th, 1841, and finally July 31st, 1841,

by Juan B. Alvarado to Santiago Arguello et al., and 3 leagues granted to Juan Foster by Pio Pico April 21st, 1846; claim filed October 23d, 1852, confirmed by the commission September 26th, 1854, by the district court February 21st, 1857, and appeal dismissed February 11th, 1858; containing 22,184.47 acres.

413, 229, S. D. William Workman, claimant for Cajon de los Negros, 3 square leagues, in Los Angeles county, granted June 15th, 1846, by Pio Pico to Ygnacio Coronel; claim filed October 23d, 1852, and rejected by the commission December 12th, 1854.

414, 374, S. D. Josefa Montalva et al., claimants for Temascal, described by boundaries, in San Bernardino county, granted by José Maria Echeandia to Leandro Serano; claim filed October 26th, 1852, and rejected by the commission September 18th, 1855.

415, 132, S. D. Michael White, claimant for San Gabriel, 500 varas square, in Los Angeles county, granted March 27th, 1845, by Pio Pico to M. White; claim filed October 26th, 1852, confirmed by the commission February 28th, 1854, by the district court December 21st, 1855, and appeal dismissed February 24th, 1857.

416, 133, S. D., 350. Maria Ignacio Berdugo, claimant for De los Felis, 1½ squares leagues, in Los Angeles county, granted March 22d, 1843, by Manuel Micheltoarena to M. I. Berdugo; claim filed October 26th, 1852, confirmed by the commission February 28th, 1854, by the district court January 13th, 1857, and appeal dismissed March 4th, 1858.

417, 134, S. D. Lugardo Aguilar and Pascuala Garcia, his wife, claimants for 500 varas by 250, near San Gabriel, in Los Angeles county, granted May 15th, 1843, by Manuel Micheltoarena to Manuel Dolivera; claim filed October 26th, 1852, confirmed by the commission February 28th, 1854, by the district court March 3d, 1856, and appeal dismissed February 24th, 1857.

418, 135, S. D. Rafael Valenzuela et al., claimants for 466 varas by 264, near San Gabriel, in Los Angeles county, granted May 16th, 1843, by Manuel Micheltoarena to Prospero Valenzuela; claim filed October 26th, 1852, confirmed by the commission February 28th, 1854, and appeal dismissed February 1st, 1858.

419, 136, S. D., 476. Juan Silvas, claimant for 500 varas by 250, near San Gabriel, in Los Angeles county, granted May 15th, 1843, by Manuel Micheltoarena to Manuel Dolivera; claim filed October 26th, 1852, confirmed by the commission March 14th, 1854, by the district court February 24th, 1857, and appeal dismissed March 4th, 1858.

420, 137, S. D. Santiago Rios or Riva, claimant for 300 varas square, near San Juan Capistrano, in Los Angeles county, granted July 5th, 1843, by Manuel Micheltoarena to S. Rios; claim filed October 26th, 1852, confirmed by the commission February 28th, 1854, by the district court March 4th, 1856, and appeal dismissed February 23d, 1857.

421, 186, S. D. Teodocio Yorba, claimant for Lomas de Santiago, 4 square leagues, in Los Angeles county, granted May 26th, 1846, by Pio Pico to Teodocio Yorba; claim

filed October 26th, 1852, confirmed by the commission August 15th, 1854, by the district court December 11th, 1856, and appeal dismissed January 21st, 1858.

422, 386, S. D. City of Los Angeles, claimant for 16 square leagues, granted May 26th, 1781, to Pueblo de los Angeles; claim filed October 26th, 1852, confirmed by the commission February 5th, 1856, and appeal dismissed February 1st, 1858; containing 17,172.37 acres.

423, 193, S. D. Concepcion Nieto et al., claimants for Santa Gertrudes, 5 square leagues, in Los Angeles county, granted in 1784, by Pedro Fajes to Manuel Nieco, and May 22d, 1834, by José Figueroa to Josefa Cota, widow of A. M. Nieto, heir of M. Nieto; claim filed October 28th, 1852, and rejected by the commission September 12th, 1854.

424, 138, S. D., 530. Michael White, claimant for 200 varas square, near San Gabriel, in Los Angeles county, granted May 15th, 1843, by Manuel Micheltoarena to Emilio Joaquin; claim filed October 28th, 1852, rejected by the commission February 28th, 1854, and appeal dismissed for failure of prosecution January 7th, 1860.

425, 139, S. D., 434. Andrew J. Courtney and Wife, claimants for 700 varas by 400, near San Gabriel, in Los Angeles county, granted March 15th, 1845, by Pio Pico to Ramon Valencia et al.; claim filed October 28th, 1852, confirmed by the commission February 28th,

1853, by the district court December 17th, 1855, and appeal dismissed January 24th, 1857; containing 19.29 acres.

426, 162, S. D., 496. Domingo Yorba, claimant for Cañada de San Vicente, 3 square leagues, in San Diego county, granted January 25th, 1846, by Pio Pico to Juan Lopez; claim filed October 29th, 1852, confirmed by the commission May 21st, 1854, and appeal dismissed February 1st, 1858.

427, 376, S. D., 532. Tomas Sanchez et al., claimants for La Cienega or Paso de la Tigera, sis-sevenths of 1 square league, in Los Angeles county, granted Slay 16th, 1843, by Manuel Micheltorena to Vicente Sanchez; claim filed October 29th, 1852, confirmed by the commission July 10th, 1855, by the district court January 27th, 1857, and appeal dismissed January 21st, 1858.

428, 183, S. D., 560. Agustin Olvera, claimant for Los A'amos y Agua Caliente, 6 square leagues, in Los Angeles county, granted May 27th, 1846, by Pio Pico to Francisco Lopez et al.; claim filed October 29th, 1852, rejected by the commission August 15th, 1854, and confirmed by the district court December 13th, 1856.

429, 170, S. D., 547. José Maria Flores, claimant for La Liebre, 11 square leagues, in Santa Barbara county, granted April 21st, 1846, by Pio Pico to J. M. Flores; claim filed October 30th, 1852, rejected by the commission May 2d, 1854, and confirmed by the district court February 11th, 1857.

430, 60, S. D., 148. Gabriel Ruiz et al., claimants for Calleguas, described by boundaries, in Santa Barbara county, granted May 10th, 1847, by Juan B. Alvarado to José Pedro Ruiz; claim filed November 1st, 1852, confirmed by the commission November 4th, 1853, by the district court December 3d, 1855, and appeal dismissed February 23d, 1857; containing 9,998.29 acres.

431, 31, S. D., 274, 558. José Serano, claimant for Cañada de los Alisos, 2 square leagues, in Los Angeles county, part granted May 3d, 1842, by Juan B. Alvarado, and May 27th, 1846, additional extent by Pio Pico, to J. Serano; claim filed November 1st, 1852, confirmed by the commission October 21st, 1853, by the district court December 6th, 1855, and appeal dismissed February 23d, 1857; containing 10,668.81 acres.

432, 33, S. D., 444. Jorge Morillo et al., claimants for Potrero de Felipe Lugo, described by boundaries, in Los Angeles county, granted April 18th, 1845, by Pio Pico to Teodoro Romero et al.; claim filed November 1st, 1852, confirmed by the commission October 18th, 1853, by the district court September 19th, 1855, and appeal dismissed February 23d, 1857; containing 2,042.81 acres.

433, 182, S. D., 231. Isaac Williams, claimant for Santa Ana del Chino, 5 square leagues, in San Bernardino county, granted March 26th, 1841, by Juan B. Alvarado to Antonio Maria Lugo; claim filed November 1st, 1852, confirmed by the commission April 23d, 1854, by the district court January 13th, 1857, and appeal dismissed March 4th, 1858.

434, 335, S. D., 522. Isaac Williams, claimant for addition to Santa Ana del Chino, 3 square leagues, in San Bernardino county, granted April 1st, 1843, by Manuel Micheltorena to I. Williams; claim filed November 1st, 1852, confirmed by the commission May 8th, 1855, by the district court January 13th, 1857, and appeal dismissed March 4th, 1858.

435, 55, S. D. Pablo Apis, claimant for Temecula, one by one-half league, granted May 7th, 1845, by Pio Pico to P. Apis; claim filed November 1st, 1852, rejected by the commission November 15th, 1853, and confirmed by the district court February 21st, 1857.

436, 91, S. D., 60. Santiago E. Arguello, claimant for Melyo, in San Diego county and Lower California, granted November 25th, 1833, by José Figueroa to S. E. Arguello; claim filed November 1st, 1852, rejected by the commission December 20th, 1853, and by the district court September 20th, 1855.

437, 66, S. D. Magdalena Estudillo, claimant for Otay, 2 square leagues, in San Diego county, granted May 4th, 1846, by Pio Pico to M. Estudillo; claim filed November 1st, 1852, confirmed by the commission November 4th, 1853, by the district court February 11th, 1856, and appeal dismissed February 24th, 1857; containing 6,657.98 acres.

438, 163, S. D., 572. Antonio Coronel, claimant for Sierra de los Verdugos, described by boundaries, in Los Angeles county, granted June 15th, 1846, by Pio Pico to A. Coronel; claim filed November 1st, 1852, rejected by the commission January 27th, 1854, and appeal dismissed for failure of prosecution October 24th, 1855.

439, 189, S. D., 393. José A. Serano et al., claimants for Pauma, 3 square leagues, granted November 9th, 1844, by Manuel Micheltorena to J. A. Serano et al.; claim filed November 1st, 1852, confirmed by the commission May 16th, 1854, and appeal dismissed February 1st, 1858.

440, 140, S. D. Juan P. Ontiveros, claimant for San Juan Cajon de Santa Ana, granted May 13th, 1837, by Juan B. Alvarado to J. P. Ontiveros; claim filed November 1st, 1852, rejected by the commission April 11th, 1854, and confirmed by the district court December 4th, 1855.

441, 92, S. D., 72, 463, 529. Juliana Lopez Osuna, claimant for San Dieguito, 2 square leagues, 1 granted in 1840 or 1841, by Juan B. Alvarado, and the other August 11th, 1845, by Pio Pico to Juan Maria Osuna; claim filed November 1st, 1852, rejected by the commission January 24th, 1854, and confirmed by the district court March 4th, 1858.

442, 48, S. D., 17. Apolinaria Lorenzana, claimant for Jamacho, 2 square leagues, in San Diego county, granted April 27th, 1810, by Juan B. Alvarado to A. Lorenzana; claim filed November 1st, 1852, confirmed by the commission November 4th, 1853, by the district court February 4th, 1856, and appeal dismissed February 23d, 1857; containing 8,881.16 acres.

443, 269, S. D., 521. Louis Roubideau, claimant for San Jacinto and San Gregorio, granted March 22d, 1843, by Manuel Micheltorena to Santiago Johnsou; claim filed



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November 1st, 1852, rejected by the commission January 2d, 1855, and confirmed by the district court February 29th, 1860.

444, 199, N. D. Andres Pico, claimant for Arroyo Seco, 11 square leagues, in Sacramento, Amador and San Joaquin counties, granted May 8th, 1840, by Juan B. Alvarado to Teodocio Yorba; claim filed November 1st, 1852, rejected by the commission February 27th, 1855, confirmed by the district court April 21st, 1856, and by the U. S. supreme court; containing 48,857.52 acres.

445, 141, S. D., 330. Isidor Reyes et al., claimants for Voca de Santa. Monica, 1½ square leagues, in Los Angeles county, granted June 19th, 1839, by Manuel Jimeno to Francisco Marques et al; claim filed November 1st, 1852, confirmed by the commission April 4th, 1854, by the district court December 10th, 1856, and appeal dismissed March 4th, 1858.

446, 93, S. D., 565. José Loreto Sepulveda et al., claimants for Los Palos Verdes, In Los Angeles county, granted June 3d, 1846, by Pio

Pico to J. L. Sepulveda et al.; claim filed November 1st, 1852, confirmed by the commission December 20th, 1853, by the district court December 10th, 1856, and appeal dismissed March 4th, 1858; containing 31,629.13 acres.

447, 63, S. D., 443. José Ledesma, claimant for 400 by 200 varas, near San Gabriel, in Los Angeles county, granted June 3d, 1846, by Pio Pico to José Ledesma; claim filed November 1st, 1852, confirmed by the commission December 6th, 1853, by the district court February 11th, 1857, and appeal dismissed March 4th, 1858.

448, 94, S. D. Francisco Sales, claimant for 50 by 250 varas, near San Gabriel, in Los Angeles county, granted April 18th, 1845, by Pio Pico to F. Sales; claim filed November 1st, 1852, confirmed by the commission January 17th, 1854, by the district court February 20th, 1856, and appeal dismissed February 24th, 1857.

449, 95, S. D., 563. Simeon, (Indian) claimant for 500 by 200 varas, near San Gabriel, in Los Angeles county, granted June 1st, 1846, by Pio Pico to Simeon; claim filed November 1st, 1852, confirmed by the commission December 13th, 1853, by the district court February 18th, 1856, and appeal dismissed February 24th, 1857.

450, 51. S. D. Andres Duarte et al., claimants for 25 by 40 varas, near San Gabriel, in Los Angeles county, granted April 25th, 1846, by Pio Pico to A. Duarte et al.; claim filed November 1st, 1852, rejected by the commission December 6th, 1853, and appeal dismissed for failure of prosecution October 25th, 1855.

451, 192, S. D., 205. Lorenzo Soto, claimant for Los Vallecitos, 2 square leagues, in San Diego county, granted April 22d, 1840, by Juan B. Alvarado to José Maria Alvarado; claim filed November 4th, 1852, rejected by the commission September 5th, 1854, confirmed by the district court February 11th, 1856, and appeal dismissed February 24th, 1857.

452, 142, S. D. Francisco Maria Alvarado, claimant for Los Peñasquitos, 2 square leagues, in San Diego county, granted June 15th, 1823, by Luis Antonio Arguello to Francisco Maria Ruiz; claim filed November 4th, 1852, rejected by the commission February 21st, 1854, and confirmed by the district court March 4th, 1858.

453, 362, S. D. Vicenta Sepulveda, claimant for La Sierra, 4 square leagues, in Los Angeles county, granted June 15th, 1846, by Pio Pico to V. Sepulveda; claim filed November 4th, 1852, confirmed by the commission July 10th, 1855, by the district court February 19th, 1857, and appeal dismissed March 4th, 1858.

454, 341, S. D., 267. Maria Antonia Snook, claimant for San Bernardo, 4 square leagues, in San Diego county, 2 leagues granted February 16th, 1842, by Juan B. Alvarado, and 2 leagues May 26th, 1845, by Pio Pico, to José Francisco Snook; claim filed November 5th, 1852, confirmed by the commission June 5th, 1855, by the district court January 6th, 1857, and appeal dismissed March 4th, 1858; containing 17,763.07 acres.

455, 171, S. D. Victoria Reid, claimant for Huerta de Quati or Cuati, in Los Angeles county, granted October 12th, 1838, by Juan B. Alvarado to V. Reid; claim filed November 5th, 1852, rejected by the commission August 1st, 1854, confirmed by the district court October 4th, 1855, and appeal dismissed January 3d, 1857; containing 128.26 acres. Patented.

456, 354, S. D., 87, 337. Antonio Ygnacio Abila, claimant for Sansal Bedondo, 5 square leagues, in Los Angeles county, granted May 20th, 1837, by Juan B. Alvarado to A. Y. Abila; claim filed November 5th, 1852, confirmed by the commission June 19th, 1855, by the district court January 28th, 1857, and appeal dismissed March 4th, 1858.

457, 143, S. D., 186. Francisco Sepulveda, claimant for San Vicente and Santa Monica, 4 square leagues, in Los Angeles county, granted December 20th, 1839, by Juan B. Alvarado to F. Sepulveda; claim filed November 5th, 1852, confirmed by the commission April 25th, 1854, by the district court February 23d, 1857, and appeal dismissed January 21st, 1858.

458, 360, S. D. Casildo Aguilar et al., claimants for La Cienega or Paso de la Tigera, 1 square league, in Los Angeles county, granted May 16th, 1843, by Manuel Micheltorena to Vicente Sanchez; claim filed November 6th, 1852, confirmed by the commission July 10th, 1855, by the district court January 27th, 1857, and appeal dismissed June 4th, 1857.

459, 302, S. D. José Justo Morillo et al., claimants for Las Bolsas, 7 square leagues, in Los Angeles county, granted in 1784, by Pedro Fajes to Manuel Nieto, and May 22d, 1834, by José Figueroa to Catarina Ruiz, widow of Manuel Nieto; claim filed November 6th, 1852, rejected by the commission February 13th, 1855, and confirmed by the district court February 17th, 1857. (See No. 402.)

460, 246, S. D., 491. Juan Foster, claimant for Rancho de la Nacion, 6 square leagues, in San Diego county, granted December 11th, 1845, by Pio Pico to J. Foster; claim filed November 6th, 1852, confirmed by the commission October 24th, 1854, by the district court February 21st, 1857, and appeal dismissed June 4th, 1857; containing 26,631.94 acres.

461, 329, S. D., 562. Juan Foster, claimant for Valle de San Felipe, 3 square leagues, in San Diego county, granted May 30th, 1846, by Pio Pico to Felipe Castillo; claim filed November 6th, 1852, confirmed by the commission May 22d, 1855, by the district court February 21st, 1857, and appeal dismissed June 4th, 1857; containing 9,972.08 acres.

462, 312, S. D., 536. Heirs of Juan B. Alvarado, claimants for Rincon del Diablo, 3 square leagues, in San Diego county, granted May 18th, 1843, by Manuel Micheltorena to J. B. Alvarado; claim filed November 8th, 1852, confirmed by the commission May 22d, 1855, by the district court January 6th, 1857, and appeal dismissed March 4th, 1858; containing 12,653.77 acres.

463, 263, S. D. Louis Boubideau, claimant for Jurupa, 7 square leagues, in San Bernardino county, granted September 28th, 1838, by Juan B. Alvarado to Juan Bandini; claim filed November 8th, 1852, confirmed by the commission December 19th, 1854, and appeal dismissed June 8th, 1857.

464, 52, S. D., 215. David W. Alexander et al., claimants for Tujunga, 1½ square leagues, in Los Angeles county, granted December 5th, 1840, by Juan B. Alvarado to Pedro Lopez et al.; claim filed November 8th, 1852, rejected by the commission November 4th, 1853, confirmed by the district court February 28th, 1856, and appeal dismissed February 23d, 1857; containing 6,660.71 acres.

465, 50, S. D. David W. Alexander, claimant for Cahuenga, one-fourth square league, in Los Angeles county, granted May 5th, 1843, by Manuel Micheltoarena to José Miguel Triunfo; claim filed November 8th, 1852, rejected by the commission November 15th, 1853, by the district court December 13th, 1856, and appeal dismissed by stipulation February, 1857.

466, 54, S. D. Manuel Sales Tasion, claimant for 400 by 200 varas, near San Gabriel, in Los Angeles county, granted April 18th, 1845, by Pio Pico to M. S. Tasion; claim filed November 8th, 1852, rejected by the commission November 15th, 1853, and appeal dismissed for failure of prosecution October 24th, 1855.

467, 58, S. D., 446. José Domingo, claimant for 350 by 250 varas, near San Gabriel, in Los Angeles county, granted April, 1845, by Pio Pico to Felipe; claim filed November 8th, 1852, and confirmed by the commission November 22d, 1853.

468, 47, S. D., 486. Victoria Reid, claimant for 200 varas square, near San Gabriel, in Los Angeles county, granted May 15th, 1843, by Manuel Micheltorena to Serafin de Jesus; claim filed November 8th, 1852, rejected by the commission November 29th, 1853, and appeal dismissed for failure of prosecution October 24th, 1855.

469, 144, S. D., 155. Silvestre de la Portilla, claimant for Valle de San José, 4 square leagues, in San Diego county, granted April 16th, 1836, by Gutierrez to S. de la Portilla; claim filed November 8th, 1852, rejected by the commission February 21st, 1854, and confirmed by the district court February 23d, 1857.

470, 346, S. D., 559. Bernardo Yorba et al., heirs of Antonio Yorba, claimants for Santiago de Santa Ana, 11 square leagues, in Los Angeles county, granted July 1st, 1810, by José Figueroa to Antonio Yorba; claim filed November 9th, 1852, confirmed by the commission July 10th, 1855, and appeal dismissed June 8th, 1857; containing 62,516.57 acres.

471, 251, S. D., 449. Maria Juana de los Angeles, claimant for Cuca, one-half square league, in San Diego county, granted May 7th, 1845, by Pio Pico to M. J. de los Angeles; claim filed November 9th, 1852, confirmed by the commission October 10th, 1854, and by the district court December 24th, 1856.

472, 65, S. D., 241. Raimundo Olivas et al., claimants for San Miguel, 1½ square leagues, in Santa Barbara county, granted July 6th, 1841, by Juan B. Alvarado to B. Olivas et al.; claim filed November 9th, 1852, confirmed by the commission November 22d, 1853, by the district court February 27th, 1856, and appeal dismissed February 23d, 1857; containing 4,693.91 acres.

473, 219, S. D., 542. José Bamon Malo, claimant for Santa Bitá, 3 square leagues, in Santa Barbara county, granted April 12th, 1845, by Pio Pico to J. B. Malo; claim filed November 9th, 1852, confirmed by the commission October 17th, 1854, and by the district court December 24th, 1856.

474, 294, S. D., 160. Maria Jesus Olivera de Cota et al., claimants for Santa Rosa, 3½ square leagues, in Santa Barbara county, 1½ leagues granted July 30th, 1839, by Manuel Jimeno, and 2 leagues November 19th, 1845, by Pio Pico, to Francisco Cota; claim filed November 9th, 1852, confirmed by the commission February 27th, 1855, and by the district court December 24th, 1856.

475, 272, S. D. Tomas Sanchez Colima, claimant for Santa Gertrudes, in Santa Barbara county, granted by Pio Pico to Antonio Maria Nieto; claim filed November 9th, 1852, confirmed by the commission December 12th, 1854, and appeal dismissed June 8th, 1857.

476, 389, S. D. José Ramon Malo, claimant for La Purisima, in Santa Barbara county, granted December 6th, 1845, by Pio Pico to J. R. Malo; claim filed November 10th, 1852, confirmed by the commission December 31st, 1855, and appeal dismissed June 8th, 1857; containing 14,927.62 acres.

477, 248, S. D. Juan Gallardo, claimant for 2,000 varas square, in Los Angeles county, granted July 17th, 1838. by Juan B. Alvarado to J. Gallardo; claim filed November 11th, 1852, rejected by the commission November 14th, 1854, and confirmed by the district court January 20th, 1860.

478, 371, S. D. Maria Rita Raldez, claimant for San Antonio, 1 square league, in Los Angeles county, granted in 1831, by Juan B. Alvarado to M. B. Baldez et al.; claim filed November 11th, 1852, confirmed by the commission September 25th, 1855, and appeal dismissed June 8th, 1857.

479, 318, S. D. Manuel Antonio Rodriguez de Poli, claimant for Mission of San Buenaventura, 12 square leagues, in Santa Barbara county, granted June 8th, 1846, by Pio Pico to José Arnas; claim filed November 11th, 1852, confirmed by the commission May 15th, 1855, and by the district court April 1st, 1861.

480, 313, S. D. Nasario Dominguez, claimant for one-sixth of San Pedro, in Los Angeles county, granted in 1822, by P. V. de Sola to Cristobal Dominguez; claim filed November 12th, 1852, rejected by the commission January 2d, 1855, and appeal dismissed in district court by claimant December 21st, 1857.

481, 145, S. D., 459. Andres et al., claimants for Guajome, 1 square league, in San Diego county, granted July 19th, 1845, by Pio Pico to Andres and José Manuel; claim filed November 12th, 1852, confirmed by the commission February 7th, 1854, by the district court December 17th, 1855, and appeal dismissed February 24th, 1857; containing 2,219.41 acres.

482, 146, S. D. Emigdio Vejar, claimant for Boca de la Playa, 1½ square leagues, in Los Angeles county, granted May 7th, 1846, by Pio Pico to E. Vejar; claim filed November 12th, 1852, confirmed by the commission March 14th, 1854, and appeal dismissed February 1st, 1858.

483, 147, S. D. Leon V. Prudhomme, claimant for Topanga Malibu, 3 square leagues, in Los Angeles county, granted in 1804, by José Joaquin de Arrellaga to José Bartolom José Tapia; claim filed November 12th, 1852, rejected by the commission March 21st, 1854, and by the district court in 1860.

484, 249, S. D. William Williams et al., claimants for Valle de las Viejas, 4 square leagues, in San Diego county, granted May 1st, 1846, by Pio Pico to Ramon Asuna et al.; claim filed November 13th, 1852, rejected by the commission December 26th, 1854, and appeal dismissed for failure of prosecution February 11th, 1856.

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485, 264, S. D. Cave J. Coutts, claimant for La Soledad, 1 square league, in San Diego county, granted April 13th, 1838, by Carlos Antonio Carrillo, styling himself provisional governor, to Francisco Maria Alvarado; claim filed November 13th, 1852, rejected by the commission January 23d, 1855, and appeal dismissed for failure of prosecution February 11th, 1856.

486, 148, S. D., 499. Juan Moreno, claimant for Santa Rosa, 3 square leagues, in San Diego county, granted January 30th, 1846, by Pio Pico to J. Moreno; claim filed November 13th, 1852, confirmed by the commission April 4th, 1854, and by the district court January 15th, 1856.

487, 287, S. D. Antonio José Rocha et al., claimants for La Brea, 1 square league, in Los Angeles county, granted January 6th, 1828, by José Antonio Carrillo to A. J. Rocha et al.; claim filed November 15th, 1852, rejected by the commission March 6th, 1855, and by the district court August 8th, 1860.

488, 266, S. D., 531. Anacleto Lestrade, claimant for Cañada de los Coches, 400 varas square, granted August 16th, 1843, by Manuel Micheltorena to Apolinaria Lorenzana; claim filed December 13th, 1852, confirmed by the commission December 26th, 1854, and appeal dismissed for failure of prosecution February 1st, 1858.

489, 96, S. D., 537. Arno Maube, claimant for 200 varas square, near San Gabriel, in Los Angeles county, granted May 20th, 1843, by Manuel Micheltorena to A. Maube; claim filed December 13th, 1852, rejected by the commission

January 17 th, 1854, and dismissed for failure of prosecution March 7th, 1860.

490, 138, N. D., 284. Maria Manuel Valencia, claimant for Boca de Cañada del Pinole, 3 square leagues, in Contra Costa county, granted June 21st, 1842, by Juan B. Alvarado to M. M. Valencia; claim filed December 13th, 1852, rejected by the commission August 10th, 1854, confirmed by the district court November 26th, 1854, and by the U. S. supreme court; containing 13,353.38 acres.

491, 239, S. D., 314. Pedro C. Carrillo, claimant for Camulos, 4 square leagues, in Santa Barbara county, granted October 2d, 1843, by Manuel Micheltorena to Pedro C. Carrillo; claim filed December 13th, 1852, rejected by the commission November 7th, 1854, and appeal dismissed for failure of prosecution August 10th, 1860.

492, 29, S. D., 395. Baimundo Carrillo, claimant for Nojoqui, 3 square leagues, in Santa Barbara county, granted April 27th, 1843, by Manuel Micheltorena to B. Carrillo; claim filed December 13th, 1852, confirmed by the commission October 12th, 1853, by the district court October 3d, 1855, and appeal dismissed February 24th, 1857; containing 13,284.50 acres.

493, 185, N. D., 441. Hilario Sanchez, claimant for Temalpais or Tamalnais, 2 square leagues, in Marin county, granted November 28th, 1845, by Pio Pico to H. Sanchez; claim filed December 13th, 1852, and rejected by the commission September 26th, 1854.

494, 97, S. D., 55, 163. Crisogono Ayala et al., claimants for Santa Ana, in Santa Barbara county, granted April 14th, 1837, by Juan B. Alvarado to Crisogono Ayala et al.; claim filed December 20th, 1852, confirmed by the commission January 24th, 1854, by the district court October 9th, 1855, and appeal dismissed February 3d, 1857; containing 21,522.04 acres.

495, 67, N. D., 200. Joseph P. Thompson, claimant for part of Napa, 640 acres, in Napa county, granted September 30th, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed December 21st, 1852, confirmed by the commission December 13th, 1853, by the district court February 13th, 1857, and appeal dismissed April 2d, 1857.

496, 209, N. D. José Maria Fuentes, claimant for Potrero, 11 square leagues, in Santa Clara county, granted June 12th, 1843, by Manuel Micheltorena to J. M. Fuentes; claim filed December 21st, 1852, rejected by the commission November 21st, 1854, by the district court August 24th, 1857, and decree affirmed by the U. S. supreme court in 22 Howard [63 U. S.] 443.

497, 183, N. D., 27. Heirs of Juan Reid, claimants for Corte de Madera del Presidio, 1 square league, in Marin county, granted October 2d, 1834, by José Figueroa to Juan Reid; claim filed December 23d, 1852, confirmed by the commission June 13th, 1854, by the district court January 14th, 1856, and appeal dismissed April 2d, 1857; containing 4,460.24 acres.



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498, 236, S. D., 307. Pedro C. Carrillo, claimant for Los Alamos y Agua Caliente, in Los Angeles county, granted October 2d, 1843, by Manuel Micheltorena to P. C. Carrillo; claim filed December 24th, 1852, rejected by the commission November 7th, 1854, and appeal dismissed for failure of prosecution August 10th, 1860.

499, 253, N. D. John Hendley et al., claimants for Llano de Santa Rosa, 1 square league, in Sonoma county, granted March 20th, 1844, by Manuel Micheltorena to Joaquin Carrillo; claim filed December 24th, 1852, rejected by the commission January 23d, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

500, 78, N. D., 200. Lilburn "W. Boggs, claimant for part of Napa, 680 acres, in Napa county, granted September 21st, 1838, by Juan. B. Alvarado to Salvador Vallejo; claim filed December 28th, 1852, confirmed by the commission December 13th, 1853, by the district court April 14th., 1856, and appeal dismissed April 2d, 1857.

501,149, S. D., 253. Joaquin Estrada, claimant for Santa Margarita, 4 square leagues, in San Luis Obispo county, granted September 28th, 1841, by Manuel Jimeno to J. Estrada; claim filed December 28th, 1852. confirmed by the commission April 4th, 1854, by the district court October 3d, 1855, and appeal dismissed February 5th, 1857; containing 17,734.94 acres Patented.

502, 101, S. D. Teodoro Gonzales, claimant for Rincon de la Puente del Monte, 7 square leagues, in Monterey county, granted September 20th, 1836, by Gutierrez to T. Gonzales; claim filed December 28th, 1852, confirmed by the commission February 7th, 1854, by the district court September 21st, 1855, and appeal dismissed February 24th, 1857; containing 15,218.62 acres.

503, 363, N. D., 293. Maria L. B. Berreyesa et al., claimants for San Vincente, 1 square league, in Santa Clara county, granted August 20th, 1842, by Juan B. Alvarado to José R. Berreyesa; claim filed December 30th, 1852, confirmed by the commission July 3d, 1855, by the district court March 13th, 1857, and decree affirmed by the U. S. supreme court in 23 Howard [64 U. S] 499; containing 4,438.36 acres.

504, 320, S. D. José Miguel Gomez, claimant for San Simeon, 1 square league, in San Luis Obispo county, granted December 1st, 1842, by Juan B. Alvarado to José Ramon Estrada; claim filed December 31st, 1852, confirmed by the commission May 8th, 1855, by the district court January 12th, 1857, and appeal dismissed March 4th, 1858; containing 4, 468.81 acres.

505, 27, S. D., 248. Felician Soberanes, claimant for San Lorenzo, 5 square leagues, in Monterey county, granted August 9th, 1841, by Juan B. Alvarado to F. Soberanes; claim filed December 31st, 1852, rejected by the commission October 25th, 1853, confirmed by the district court September 24th, 1855, and appeal dismissed February 24th, 1857; containing 21,884.38 acres.

506, 181, N. D. Agustin Bernal, claimant for Santa Teresa, 1 square league, in Santa Clara county, granted July 11th, 1834, by José Figueroa to Joaquin Bernal; claim filed January 3d, 1853, confirmed by the commission September 5th, 1854, by the district court August 11th, 1856, and appeal dismissed November 2d, 1858; containing 4,460.03 acres.

507, 8, N. D. H. F. Teschemacher, claimant for Lup Yomi, 14 square leagues, in Napa county, granted September 5th, 1844, by Manuel Micheltorena to Salvador Vallejo et al.; claim filed January 5th, 1853, rejected by the commission December 13th, 1853, confirmed by the district court June 27th, 1855, decree reversed by the U. S. supreme court and case remanded for further evidence, 22 Howard [63 U. S.] 392.

508; 256, S. D., 54. Heirs of Domingo Carrillo, claimant for one-half of Las Virgenes, 4 square leagues, in Los Angeles county, granted October 1st, 1834, by José Figueroa to D. Carrillo et al; claim filed January 6th, 1853, rejected by the commission November 7th, 1854, and appeal dismissed for failure of prosecution May 7th, 1860.

509, 330, N. D., 341. Samuel G. Reed et al., claimants for Rancho del Puerto, 3 square leagues, in Stanislaus county, granted January 20th, 1844, by Manuel Micheltorena to Mariano

Hernandez et al; claim filed January 7th, 1853, confirmed by the commission May 22d, 1855, by the district court May 6th, 1856, and appeal dismissed March 27th, 1857; containing 13,340.39 acres.

510, 168, N. D., 200. Uladislao Vallejo, claimant for part of Napa, 600 yards square, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed January 11th, 1853, rejected by the commission August 22d, 1854, and appeal dismissed for failure of prosecution April 1st, 1856.

511, 349, N. D. Henry Cambuston, claimant for 11 square leagues, in Butte county, granted May 23d, 1846, by Pio Pico to H. Cambuston; claim filed January 14th, 1853, confirmed by the commission July 10th, 1855, by the district court March 3d, 1856, decree reversed by the U. S. supreme court and case remanded for further hearing, 20 Howard [61 U. S.] 59. Claim rejected by the district court November 9th, 1859.

512, 227, S. D. Guadalupe Ortega de Chapman et al., claimants for San Pedro, 1 square league, in Santa Barbara county, granted in 1838, by Juan B. Alvarado to José Chapman; claim filed January 15th, 1853, rejected by the commission November 21st, 1854, and confirmed by the district court April 11th, 1861.

513, 292, S. D. Francisco Estevan Quintana, claimant for La Vena, 1 square league, in San Luis Obispo county, granted January 14th, 1842, by Juan B. Alvarado to F. E. Quintana; claim filed January 15th, 1853, rejected by the commission February 27th, 1855, and appeal dismissed for failure of prosecution December 18th, 1856.

514, 143, N. D. James Enright claimant for 2,000 varas square, in Santa Clara county, granted January 6th, 1845, by Manuel Micheltorena to Francisco Garcia; claim filed January 17th, 1853, confirmed by the commission August 8th, 1854, by the district court April 26th, 1858, and by the U. S. supreme court; containing 710.14 acres.

515, 394, N. D. Joseph C. Palmer et al., claimants for Punta de Lobos, 2 square leagues, in San Francisco county, granted June 25th, 1846, by Pio Pico to Benito Diaz; claim filed January 17th, 1853, rejected by the commission August 14th, 1855, by the district court December 5th, 1857, and judgment affirmed by the U. S. supreme court with costs, 24 Howard [65 U. S.] 125.

516, 220, N. D., 454. Barcellia Bernal, claimant for Embarcadero de Santa Clara, 1,000 varas square, in Santa Clara county, granted June 18th. 1845, by Pio Pico to B. Bernal; claim filed January 17th, 1853, confirmed by the commission December 12th, 1854, and by the district court February 23d, 1857.

517, 150, S. D., 301. Nicholas A. Den, claimant for Dos Pueblos, 3 square leagues, in Santa Barbara county, granted April 18th, 1842, by Juan B. Alvarado to N. A. Den; claim filed January 18th, 1853, confirmed by the commission March 14th, 1854, by the district court December 28th, 1855, and appeal dismissed February 24th, 1857; containing 15,535.33 acres.

518, 151, S. D. David Spence, claimant for Llano de Buenavista, 2 square leagues, in Monterey county, granted in 1823, by Luis Antonio Arguello to José Mariano Estrada; claim filed January 18th, 1853, confirmed by the commission March 14th, 1854, by the district court January 7th, 1856, and appeal dismissed February 23d, 1857; containing 8,446.23 acres. Patented.

519, 152, S. D., 261. José Dolores Ortega, claimant for Cañada del Corral, 2 square leagues, in Santa Barbara county, granted November 5th, 1841, by Manuel Jimeno to J. D. Ortega; claim filed January 19th, 1853, confirmed by the commission February 21st, 1854, by the district court February 1st, 1856, and appeal dismissed February 23d, 1857; containing 8,875.76 acres.

520, 252, S. D., 570. Daniel Hill, claimant for La Goleta, 1 square league, in Santa Barbara county, granted June 10th, 1846, by Pio Pico to D. Hill; claim filed January 19th, 1853, confirmed by the commission December 26th, 1854, by the district court February 8th, 1858, and appeal dismissed May 15th, 1861.

521, 153, S. D., 520. Manuel Arguisola, claimant for Temascal, 3 square leagues, in Santa Barbara county, granted March 17th, 1843, by Manuel Micheltorena to Francisco Lopez et al.; claim filed January 19th, 1853, rejected by the commission April 4th, 1853, and confirmed by the district court February 20th, 1857.

522, 154, S. D., 9. Antonio Maria Ortega et al., claimants for Nuestra Señora del Refugio, 6 square leagues, in Santa Barbara county, granted August 1st, 1834, by José Figueroa to A. M. Ortega et al.; claim filed January 19th, 1853, confirmed by the commission March 14th, 1854, by the district court December 29th, 1856, and appeal dismissed March 4th, 1838; containing 26,529.30 acres.

523, 240, N. D. Hicks and Martin, claimants for Rancho de los Cosumnes, 1 square league, in Sacramento county, granted December 22d, 1844, by Manuel Micheltorena to Heleno; claim filed January 21st, 1853, and rejected by the commission January 23d, 1855.

524, 300, N. D., 299. Barbara Soto et al., claimants for San Lorenzo, 1½ square leagues, in Alameda county, granted October 10th, 1842, by Manuel Micheltorena, and January 20th, 1844, by Juan B. Alvarado, to Francisco Sotor claim filed January 22d, 1853, confirmed by the commission April 24th, 1855, by the district court April 23d, 1857, and appeal dismissed April 29th, 1857; containing 6,686.33 acres.

525, 418, N. D. Bethuel Phelps, claimant for Punta Beyes, 8 square leagues, in Marin county, granted March 17th, 1836, by Nicolas Gutierrez to James Richard Berry; claim filed January 22d, 1853, confirmed by the commission August 7th, 1855, by the district court December 22d, 1857, and appeal dismissed December 22d, 1857.

526, 348, S. D. Feliciano Soberanes, claimant for Mission de la Soledad, 2 square miles, in Monterey county, granted January 4th, 1846, by Pio Pico to F. Soheranes; claim

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filed January 22d, 1853, confirmed by the commission July 17th, 1855, and appeal dismissed June 8th, 1857; containing 8,899.82 acres.

527, 201, S. D. James Blair et al., claimants for Salsipuedes, 8 square leagues, in Santa Cruz county, 2 square leagues granted with conditions November 4th, 1834, by José Figueroa, and final title to 8 square leagues March 1st, 1840. by Juan B. Alvarado, to Manuel Jimeno Casarin; claim filed January 27th, 1853, confirmed by the commission May 2d, 1854, and appeal dismissed October 8th, 1857; containing 27,662.57 acres. Patented.

528, 268, S. D., 150. Luis T. Burton et al., claimants for two-thirds of Jesus Maria, in Santa Barbara county, granted April 8th, 1837, by Juan B. Alvarado to Lucas Olivera et al.; claim filed January 27th, 1853, confirmed by the commission December 19th, 1854, and appeal dismissed February 1st, 1858; containing 42,184.93 acres.

529, 155, S. D., 260. James McKinlay, claimant for Moro y Cayucos, 2 square leagues, in San Luis Obispo county, 1 square league

granted April 27th, 1842, to Martin Olivera, and the other by Juan B. Alvarado to Vicente Feliz; claim filed January 28th, 1853, confirmed by the commission April 4th, 1854, by the district court December 24th, 1856, and appeal dismissed March 4th, 1858; containing 8,845.49 acres.

530, 34, S. D., 384. James McKinlay, claimant for San Lucas, 2 square leagues, in Monterey county, granted May 9th, 1842, by Juan B. Alvarado to Bafael Estrada; claim filed January 28th, 1853, rejected by the commission December 13th, 1853, confirmed by the district court February 21st, 1856, and appeal dismissed February 24th, 1857; containing 3,590.25 acres.

531, 270. S. D. Fermina Espinoza de Perez and Domingo Perez, claimants for Los Gates or Santa Rita, 1 square league, in Monterey county, granted in 1820, and September 3d, 1837, by Juan B. Alvarado to José Trinidad Espindza; claim filed January 29th, 1853, confirmed by the commission January 23d, 1855, by the district court January 23d, 1857, and appeal dismissed March 4th, 1858; containing 4,424.46 acres.

532, 244, S. D., 191. Eusebio Boronda, claimant for Rinconada del Sanjon, 1½ square leagues, in Monterey county, granted February 1st, 1840, by Juan B. Alvarado to E. Boronda; claim filed January 29th, 1853, confirmed by the commission October 31st, 1854, by the district court October 16th, 1856, and appeal dismissed February 5th, 1857; containing 2,229.70 acres. Patented.

533, 240, S. D., 175. José Manuel Boronda et al., claimants for Los Laureles 1½ square leagues, in Monterey county, granted September 20th, 1839, by Juan B. Alvarado to José M. Boronda and Vicente Bias Martinez; claim filed January 29th, 1853, confirmed by the commission October 31st, 1854, by the district court January 7th, 1856, and appeal dismissed February 5th, 1857; containing 6,624.99 acres.

534, 156, S. D. Joaquin Carrillo et al., claimants for San Carlos de Jonata, 6 square leagues, in Santa Barbara county, granted September 24th, 1845, by Pio Pico to J. Carrillo et al.; claim filed January 29th, 1853, confirmed by the commission January 31st, 1854, and by the district court February 7th, 1857; containing 26,631.31 acres .

535, 215, S. D., 16. Rafael Estrada, claimant for Rincon de las Salinas, one-half square league, in Monterey county, granted December 2d, 1833, by José Figueroa to Cristina Delgado; claim filed January 29th, 1853, confirmed by the commission September 26th, 1854, by the district court January 7th, 1856, and appeal dismissed February 5th, 1857; containing 2,220.02 acres. Patented.

536, 349, S. D., 326. José Maria Covarrubias, claimant for Castac, 5 square leagues, in Los Angeles county, granted November 22d, 1843, by Manuel Micheltorena to J. M. Covarrubias; claim filed January 29th, 1853, confirmed by the commission July 10th, 1855, by the district court January 21st, 1857, and appeal dismissed March 6th, 1858.

537, 230, S. D., 75. Juana Briones de Lugo et al., claimants for Paraje de Sanchez, 1½square leagues, in Monterey county, granted June 8th, 1839, by Juan B. Alvarado to Francisco Lugo; claim filed January 29th, 1853, confirmed by the commission November 7th, 1854, by the district court October 16th, 1855, and appeal dismissed February 5th, 1857; containing 6,584.32 acres.

538, 369, S. D. José Maria Covarrubias et al., claimants for Mission of Santa Inez, in Santa Barbara county, granted June 15th, 1846, by Pio Pico to J. M. Covarrubias et al.; claim filed January 29th, 1853, and rejected by the commission September 11th, 1855.

539, 234, S. D., 135. Maria del Espiritu Santo Carrillo, claimant for Loma del Espiritu Santo, described by boundaries, in Monterey county, granted April 15th, 1839, by Juan B. Alvarado to Maria del Espiritu Santo Carrillo; claim filed January 29th, 1853, rejected by the commission November 14th, 1854, and appeal dismissed for failure of prosecution February 11th, 1856.

540, 222, S. D., 121. Heirs of Felipe Vasquez, claimants for Chamisal, 1 square league, in Monterey county, granted November 17th, 1835, by José Castro to F. Vasquez; claim filed January 31st, 1853, and rejected by the commission October 24th, 1854.

541, 189, N. D.; 174, S. D., (sent to Northern District). Gregorio Briones, claimant for Las Baulines, 2 square leagues, in Marin county, granted February 11th, 1846, by Pio Pico to G. Briones; claim filed January 31st, 1853, confirmed by the commission May 15th, 1854, by the district court January 19th, 1857, and appeal dismissed April 2d, 1857; containing 8,911.34 acres.

542, 88, N. D. Encarnacion Buelna and heirs of Maria Concepcion V. de Bodriguez, claimants for part of San Gregorio, 3 square leagues, in Santa Cruz county granted May 2d, 1839, by Juan B. Alvarado to Antonino Buelna; claim filed February 1st, 1853, rejected by the commission December 27th, 1853, confirmed by the district court October 29th, 1855, and appeal dismissed July 24th, 1857; containing 13,344.15 acres. Patented.

543, 242, S. D. Mayor and common council of Santa Barbara, claimants for 8¾ square leagues, granted, in 1782, to the Pueblo of Santa Barbara; claim filed February 1st, 1853, rejected by the commission August 1st, 1854, and confirmed by the district court March 6th, 1861.

544, 221, S. D., 275. Mariano Soberanes, claimant for Los Ojitos, 2 square leagues, in Monterey county, granted April 5th, 1842, by Juan B. Alvarado to M. Soberanes; claim filed. February 1st, 1853, confirmed by the commission September 26th, 1854, by the district court January 7th, 1856, and appeal dismissed February 5th, 1857; containing 8,900.17 acres.

545, 181, S. D., 348. Julian Ursua, claimant for La Panocha de San Juan, 5 square leagues, in San Joaquin county, granted February 17th, 1844, by Manuel Micheltorena to

J. Ursua; claim filed February 2d, 1853, confirmed by the commission May 2d, 1854, and by the district court December 17th, 1856.

546, 373, S. D., 198. José Castro, claimant for San José y Sur Chiquita, 2 square leagues, in Monterey county, granted April 16th, 1839, by Juan B. Alvarado to Marcelino Escobar; claim filed February 2d, 1853, and rejected by the commission August 28th, 1855.

547, 368, S. D. José Maria Covarrubias, claimant for Isla de Santa Catalina, described by boundaries, in Los Angeles county, granted July 4th, 1846, by Pio Pico to Tomas M. Hobbins; claim filed February 3d, 1853, confirmed by the commission September 25th, 1855, and by the district court March 1st, 1858.

548, 424, N. D. José Y. Limantour, claimant for 4 square leagues, in San Francisco county, part of the city, supposed to extend south of California street, granted February 27th, 1843, by Manuel Micheltorena to J. Y. Limantour; claim filed February 3d, 1853, confirmed by the commission January 22d, 1856, and rejected by the district court October 19th, 1858.

549, 429, N. D. José Y. Limantour, claimant for the islands of Farrallones, Alcatraz and Yerba Buena, and a tract of 1 square league in Marin county, opposite the island of Los Angeles, known as Punta del Tiburon, granted December 16th, 1843, by Manuel Micheltorena to J. Y. Limantour; claim filed February 3d,



1853, confirmed by the commission February 12th, 1856, and rejected by the district court November 19th, 1858.

550, 328, S. D., 204. John P. Davison, claimant for Santa Paula y Saticoy, 4 square leagues, in Santa Barbara county, granted April 1st, 1843, by Manuel Micheltorena to Manuel Jimeno Casarin; claim filed February 3d, 1853, confirmed by the commission May 22d, 1855, and appeal dismissed March 4th, 1858; containing 17,733.33 acres.

551, 223, S. D., 238. Mariano Soberanes et al., claimants for San Bernardo, 3 square leagues, in Monterey county, granted June 16th, 1841, by Juan B. Alvarado to M. Soberanes et al.; claim filed February 5th, 1853, confirmed by the commission November 7th, 1854, by the district court January 14th, 1856, and appeal dismissed February 5th, 1857; containing 13,345.65 acres.

552, 210, S. D., 292. Heirs of Joaquin Soto, claimants for El Piojo, 3 square leagues, in Monterey county, granted August 20th, 1842, by Juan B. Alvarado to Joaquin Soto; claim filed February 5th, 1853, confirmed by the commission September 26th, 1854, by the district court January 19th, 1857, and appeal dismissed March 4th, 1858; containing 13,329.28 acres.

553, 284, S. D., 209. Antonio Olivera, claimant for Casmalia, 2 square leagues, in Santa Barbara county, granted September 12th, 1840, by Juan B. Alvarado to A. Olivera; claim filed February 5th, 1853, confirmed by the commission March 6th, 1855, and appeal dismissed February 1st, 1858; containing 8,841.21 acres.

554, 356, S. D. Andrew Randall and Fletcher M. Haight, claimants for Cañada de la Segunda, 1 square league, in Monterey county, granted April 4th, 1839, by José Castro to Lazaro Soto; claim filed February 5th, 1853, confirmed by the commission August 14th, 1855, by the district court February 5th, 1858, and appeal dismissed February 8th, 1858; containing 4,366.80 acres. Patented.

555, 253, S. D., 316. Andrew Randall, claimant for San Lorenzo, 5 square leagues, in Monterey county, granted November 16th, 1842, by Juan B. Alvarado to Francisco Rico; claim filed February 5th, 1853, confirmed by the commission December 12th, 1854, by the district court January 12th, 1857, and appeal dismissed March 4th, 1858; containing 22,264.47 acres.

556, 344, S. D., 289. Francisco Dominguez et al., claimants for San Emidio, 4 square leagues, in Los Angeles county, granted July 14th, 1842, by Juan B. Alvarado to José Antonio Dominguez; claim filed February 5th, 1853, confirmed by the commission December 26th, 1854, and appeal dismissed June 8th, 1857; containing 17,709.79 acres.

557, 190, S. D. Jacob P. Leese, claimant for Rancho de Sausal, 2 square leagues, in Monterey county, granted August 2d, 1834, and August 10th, 1845, by José Figueroa to José Tibureio Castro; claim filed February 5th, 1853, confirmed by the commission Au-

gust 15th, 1854, by the district court December 18th, 1850, and appeal dismissed March 4th, 1858; containing 10,241.88 acres. Patented.

558, 346, N. D. Charles White, claimant for Arroyo de San Antonio, in Sonoma county, granted August 10th, 1840, by Juan B. Alvarado to Antonio Ortega; claim filed February 7th, 1853, confirmed by the commission June 26th, 1855, by the district court August 17th, 1857, decree reversed by the U. S. supreme court, and record remitted for further proceedings, 23 Howard [64 U. S.] 249.

559, 409, N. D. W. D. M. Howard, claimant for San Mateo, 2 square leagues, in San Mateo county, granted May 5th or 6th, 1846, by Pio Pico to Cayetano Arenas; claim filed February 7th, 1853, confirmed by the commission September 18th, 1855, and appeal dismissed April 6th, 1857; containing 6,438.80 acres. Patented.

560, 352, S. D. Patrick Breen, claimant for 1,500 varas square, in Monterey county, granted April 13th, 1846, by Pio Pico to José Castro; claim filed February 7th, 1853, confirmed by the commission June 26th, 1855, and appeal dismissed February 1st, 1858; containing 401.25 acres.

561, 281, S. D., 525. Michael White, claimant for Muscupiabe, 1 square league, in Los Angeles county, granted April 29th, 1843, by Manuel Micheltoena to M. White; claim filed February 8th, 1853, confirmed by the commission March 6th, 1855, and appeal dismissed June 8th, 1857.

562, 68, S. D., 276. James Watson, claimant for San Benito, 1½ square leagues, in Monterey county, granted April 5th, 1842, by Juan B. Alvarado to Francisco Garcia; claim filed February 9th, 1853, confirmed by the commission January 17th, 1854, by the district court February 23d, 1857, and appeal dismissed March 4th, 1857; containing 6,671.08 acres.

563, 380, S. D. L. E. Pogue et al., claimants for Point Pinos, 2 square leagues, in Monterey county, granted May 24th, 1833, by José Figueroa to José Maria Armenta; claim filed February 9th, 1853, and rejected by the commission. September 11th, 1855.

564, 157, S. D., 151. John C. Gore, claimant for Pescadero, 1 square league, in Monterey county, granted March 3d, 1836, by Nicolas Gutierrez to Fabian Barretto; claim filed February 9th, 1853, rejected by the commission. February 28th, 1854, and confirmed by the district court January 18th, 1856 containing 1,695.04 acres.

565, 361, S. D. Ramona Butron et al., claimants for Natividad, 2 square leagues, in Monterey county, granted November 16th, 1837, by Juan B. Alvarado to M. Butron and N. Alviso; claim filed February 9th, 1853, confirmed by the commission July 10th, 1855, by the district court February 23d, 1857, and appeal dismissed March 4th, 1858; containing 8,642.21 acres.

566, 100, S. D., 133. Guadalupe Castro, claimant for San Andres, 2 square leagues, in Santa Cruz county, granted November 27th, 1833, by José Figueroa to Joaquin Castro;

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claim filed February 9th, 1853, confirmed by the commission February 7th, 1854, by the district court February 21st, 1857, and appeal dismissed March 4th, 1858; containing 8,911.53 acres.

567, 288, S. D., 457. W. S. Johnson et al., claimants for Pleyto, 3 square leagues, in Monterey county, granted July 18th, 1845, by Pio Pico to Antonio Chaves; claim filed February 9th, 1853, rejected by the commission March 6th, 1855, and confirmed by the district court February 7th, 1857.

568, 332, N. D., 514. Antonio Rodriguez, claimant for San Vicente, 2 square leagues, in Santa Cruz county, granted April 16th, 1839, by Juan B. Alvarado to A. Rodriguez; claim filed February 9th, 1853, rejected by the commission May 8th, 1855, appeal dismissed and cause stricken from the docket February 23d, 1857.

569, 278, N. D., 393, S. D. (sent to the Southern district March 9th, 1857). Vicente Gomez, claimant for Panoche Grande, 4 square leagues, in San Joaquin county, granted in 1844, by Manuel Micheltorena to V. Gomez; claim filed February 9th, 1853, rejected by the commission March 6th, 1855, confirmed by the Southern district court June 5th, 1859. In this case, motion was made to review the decree. Pending the motion, the case was taken up on appeal to the U. S. supreme court, where the cause was docketed and dismissed. In 23 Howard [64 U. S.] 326, the order of the supreme

court docketing and dismissing cause was vacated and the mandate recalled. Case re-opened in district court March 21st, 1861, and is at issue.

570, 158, S. D., 13. Heirs of Gabriel Espinoza et al., claimants for Salinas, 1 square league, granted April 15th, 1836. by Nicolas Gutierrez to G. Espinoza; claim filed February 9th, 1853, rejected by the commission April 4th, 1854, and confirmed by the district court February 7th, 1857.

571, 306, S. D., 224. Henry Cocks, claimant for San Bernabe, 3 square leagues, in Monterey county, 1 square league granted March 10th, 1841, to Jesus Molina, and 2 square leagues granted January 8th, 1842, by Juan B. Alvarado to Petronillo Rios; claim filed February 9th, 1853, confirmed by the commission March 20th, 1855, and appeal dismissed June 8th, 1857; containing 13,296.98 acres.

572, 298, S. D. Henry Cocks, claimant for one-fourth square league, in Monterey county, granted July 30th, 1840, by Juan B. Alvarado to Esteben Espinoza; claim filed February 9th, 1853, confirmed by the commission March 20th, 1855, and appeal dismissed June 8th, 1857; containing 1,106.03 acres.

573, 159, S. D., 193. James Meadows, claimant for land in Monterey county, granted January 27th, 1840 by Juan B. Alvarado to Antonio Bomero; claim filed February 10th, 1853, confirmed by the commission March 14th, 1854, by the district court December 30th, 1856, and appeal dismissed January 21st, 1858; containing 4,591.71 acres.

574, 342, S. D. Julian Workman et al., claimants for Mission of San Gabriel, in Los Angeles county, granted June 8th, 1846, by Pio Pico to J. Workman and P. Hugo Keid; claim filed February 11th, 1853, rejected by the commission June 26th, 1855, and appeal dismissed for failure of prosecution December 20th, 1856.

575, 176, S. D. John F. Jones et al., claimants for Rio de las Animas, 6 square leagues, in Los Angeles county, granted May 12th, 1846, by Pio Pico to Leonardo Cota and Julian Chaves; claim filed February 11th, 1853, rejected by the commission August 1st, 1854, and appeal dismissed for failure of prosecution October 24th, 1855.

576, 165, S. D., 546. Agustin Olvera, claimant for La Cienega, 20 square leagues, in Los Angeles county, granted April 21st, 1846, by Pio Pico to A. Olvera and Narciso Botello; claim filed February 11th, 1853, rejected by the commission August 1st, 1854, and by the district court January 26th, 1860.

577, 249, N. D. B. McCombs, claimant for part of Salvador's Rancho, 140 acres, in Napa county, granted January 1st, 1839, by Juan B. Alvarado to Salvador Vallejo; claim filed February 11th, 1853, confirmed by the commission December 26th, 1854, and by the district court February 23d, 1857.

578, 231, N. D. Joel P. Walker, claimant for part of Entre Napa, 60 acres, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed Febru-

ary 11th, 1853, confirmed by the commission December 26th, 1854, by the district court December 23d, 1857, and appeal dismissed December 23d, 1857.

579, 212, N. D. Johnson Horrel, claimant for part of Salvador's Rancho, 240 acres in Napa county, granted January 1st, 1839, by Juan B. Alvarado to Salvador Vallejo; claim filed February 11th, 1853, confirmed by the commission October 17th, 1854, by the district court March 2d, 1857, and appeal dismissed June 13th, 1857.

580, 171, N. D. Peter D. Bailey, claimant for part of Entre Napa, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed February 11th, 1853, confirmed by the commission September 5th, 1854, by the district court December 23d, 1855, and appeal dismissed December 23d, 1855.

581, 176, N. D. Joseph Mount et al., claimants for part of Entre Napa, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed February 11th, 1853, confirmed by the commission September 5th, 1854, and by the district court February 13th, 1857.

582, 241, N. D. John Love, claimant for part of Salvador's Bancho, 100 acres, in Napa county, granted January 1st, 1839, by Juan B. Alvarado to Salvador Vallejo; claim filed February 11th, 1853, confirmed by the commission December 26th, 1854, and by the district court February 23d, 1857.

583, 261, N. D. William Keely, claimant for part of Salvador's Rancho, 40 acres, in Napa county, granted January 1st, 1839, by Juan B. Alvarado to Salvador Vallejo; claim filed February 11th, 1853, confirmed by the commission January 9th, 1855, and by the district court February 23d, 1857.

584, 222, N. D., 510. Johnson Horrel et al., claimants for Rincon de Musulacon, 2 square leagues, in Mendocino and Sonoma counties, granted May 2d, 1846, by Pio Pico to Francisco Berreyesa; claim filed February 11th, 1853, confirmed by the commission December 12th, 1854, by the district court January 14th, 1856, and appeal dismissed April 2d, 1857; containing 8,866.88 acres.

585, 172, N. D. Joseph Green, claimant for part of Entre Napa, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed February 11th, 1853, confirmed by the commission September 19th, 1854, and by the district court February 13th, 1857.

586, 242, N. D. John Patchell, claimant for part of Entre Napa, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed February 11th, 1853, confirmed by the commission January 9th, 1855, and by the district court February 23d, 1857.

587, 244, N. D. Marta Frias de Higuera, claimant for part of Entre Napa, in Napa county, granted May 8th, 1836, by Mariano Chico to Nicolas Higuera; claim filed Febru-

ary 11th, 1853, confirmed by the commission January 9th, 1855, and by the district court June 10th, 1858.

588, 76. S. D., 455. Pedro Estrada, claimant for La Asuncion, in San Luis Obispo county, granted June 19th, 1845, by Pio Pico to P. Estrada; claim filed February 12th, 1853, confirmed by the commission January 24th, 1854, by the district court January 25th, 1856, and appeal dismissed February 24th, 1857; containing 39,224.81 acres.

589, 390, S. D. President and trustees of the city of San Diego, claimants for land granted, in 1769, to the Pueblo of San Diego; claim filed February 14th, 1853, confirmed by the commission January 27th, 1856, and appeal dismissed June 8th, 1857; containing 48,556.69 acres.

590, 276, N. D., 249. Joaquin Moraga, claimant for Laguna de los Palos Colorados, 3 square leagues, in Contra Costa county, granted August 10th, 1841, by Juan B. Alvarado to J. Moraga and Juan Bernal; claim filed February 15th, 1853, confirmed by the commission January 23d. 1855, by the district court March 24th, 1856, and appeal dismissed April 8th, 1856; containing 13,318.13 acres.

591, 285, S. D., 357. Nicolas Dodero, claimant for Tres Ojos de Agua, 1,300 varas square, in Santa Cruz county, granted March 18th, 1844, by Manuel Micheltorena to N. Dodero; claim filed February 15th, 1853, confirmed by the commission February 20th, 1855, by the district

court January 18th, 1856, and appeal dismissed February 24th, 1857; containing 176 acres.

592, 307, S. D., 105. Juan Hames et al., claimants for Arroyo del Rodeo, one by one-fourth square leagues, in Santa Cruz county, .granted August 2d, 1834, by José Figueroa to Francisco Rodriguez; claim filed February 15th, 1853, confirmed by the commission March 27th, 1855, by the district court March 5th, 1856, and .appeal dismissed February 24th, 1857; containing 1,473.07 acres.

593, 343, N. D. Martina Castro, claimant for Shoquel, 1 square league, in Santa Cruz county, granted May 17th, 1834, by José Figueroa, and surplus lands, known as Palo de la Yesca, described by boundaries, granted January 7th, 1844, by Manuel Micheltorena, to M. Castro; claim filed February 16th, 1853, confirmed by the commission June 26th, 1855, and appeal dismissed March 20th, 1857; containing 32,702.41 acres. Patented.

594, 167, N. D., 179. Tiburcio Vasquez, claimant for Corral de Tierra, 1 square league, in San Mateo county, granted October 5th, 1839, by Manuel Jimeno to T. Vasquez; claim filed February 17th, 1853, confirmed by the commission August 15th, 1854, by the district court April 18th, 1859, and appeal dismissed June 29th, 1859; containing 4,436.18 acres.

595, 247, S. D., 69. José Abrego, claimant for San Francisquito, 2 square leagues, in Monterey county, granted November 9th, 1835, by José Castro to Catalina Manzaneli de Munras; claim filed February 17th, 1853, confirmed by the commission October 17th, 1854, by the district court December 19th, 1856, and appeal dismissed January 21st 1858; containing 8,813.50 acres.

596, 220, S. D., 296. Angel Castro et al., claimants for Los Paicines or Cienega de los Paicines, 2 square leagues, in Monterey county, granted October 5th, 1842, by Juan B. Alvarado to Angel Castro; claim filed February 17th, 1853, confirmed by the commission October 17th, 1854, by the district court January 28th, 1857, and appeal dismissed June 4th, 1857; containing 8,917.52 acres.

597, 323, S. D, 5. Gregorio Tapia, claimant for Aguajito, one-half square league, in Monterey county, granted August 13th, 1835, by José Figueroa to G. Tapia; claim filed February 17th, 1853, rejected by the commission May 8th, 1855, and confirmed by the district court February 8th, 1858.

598, 270, S. D. Maria Antonia Cruz, claimant for Cañada de los Piñacates, one-fourth square league, in Los Angeles county, granted November 20th, 1835, by José Castro to José Cruz and José Maria Cruz; claim filed February 17th, 1853, rejected by the commission January 23d, 1855, and appeal dismissed for failure of prosecution February 11th, 1856.

599, 202, S. D., 239. Maria Josefa Soberanes, claimant for Los Coches.2¼ square leagues, in Monterey county, granted June 14th, 1841. by Juan B. Alvarado to M. J. Soberanes; claim filed February 18th, 1853, rejected by the commission September 26th, 1854,

confirmed by the district court September 24th, 1855, and appeal dismissed February 24th, 1857; containing 8,794.09 acres.

600, 255, S. D. Manuel Castro, claimant for Laguna de Tache, 9 square leagues in Monterey county, granted January 10th, 1846, by Pio Pico to M. Castro; claim filed February 18th, 1853, rejected by the commission October 17th, 1854, and confirmed by the district court February 9th, 1858.

601, 267, S. D. Jeremiah Clark, claimant for part of Rancho Laguna de Tache, 2 square leagues, in Monterey county, granted January 10th, 1846, by Pio Pico to Manuel Castro; claim filed February 18th, 1853, rejected by the commission October 17th, 1854, confirmed by the district court February 9th, 1858. On claimant's motion, case dismissed February 10th, 1858.

602, 399, N. D. Francisco Pico, claimant for Las Calaveras, 8 square leagues, granted July 20th, 1846, by Pio Pico to F. Pico; claim filed February 18th, 1853, rejected by the commission October 16th, 1855, confirmed by the district court January 9th, 1858, decree reversed by the U. S. supreme court and petition to be dismissed, 23 Howard [64 U. S.] 321.

603, 145, N. D. Elizabeth de Zaldo, claimant for 50 varas square, at the Mission Dolores, granted October 12th, 1842, by Francisco Sanchez to Carlos Moreno; claim filed February 18th, 1853, rejected by the commission August 9th, 1854, and confirmed by the district court March 24th, 1856.

604, 284, N. D. Stephen Smith, claimant for two 50 vara lots, in San Francisco, granted December 4th, 1845, by Pio Pico to S. Smith; claim filed February 19th, 1853, and rejected by the commission March 27th, 1855.

605, 312, N. D. John Bose et al., claimants for 6 square leagues, in Yuba county, granted in 1844, by Manuel Micheltorena to John Smith; claim filed February 19th, 1853, confirmed by the commission May 22d, 1855, by the district court May 4th, 1857, and decree reversed by the U. S. supreme court with direction to dismiss the petition, 23 Howard [64 U. S.] 262.

606, 98, S. D., 164. Maria Antonia Pico de Castro et al., claimants for Bolsa Nueva y Moro Cojo, 8 square leagues, in Monterey county—Moro Coyo, 2 square leagues, granted February 14th, 1825, by Luis Arguello, and Bolsa Nueva, 1 square league, granted by Mariano Chico, May 14th, 1836; lands between the two above tracts, granted November 20th, 1837, by Juan B. Alvarado, to Simeon Castro; regrant of the whole property, being 8 square leagues, to the widow and representatives of S. Castro, September 26th, 1844, by Manuel Micheltorena; claim filed February 19th, 1853, confirmed by the commission February 7th, 1854, by the district court January 8th, 1857, and appeal dismissed March 1st, 1858; containing 28,827.78 acres.



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607, 350, S. D. Rufina Castro, claimant for one lot 100 by 200 and another 400 varas square, in Monterey county, granted May 19th, 1839, by José Castro to Mariano Castro; claim filed February 19th, 1853, and confirmed by the commission July 3d, 1855.

608, 280, S. D. Bias A. Escarilla, claimant for San Vicente, in Santa Cruz county, granted June 16th, 1846, by Pio Pico to B. A. Escarilla; claim filed February 19th, 1853, confirmed by the commission January 23d, 1855, by the district court February 7th, 1857, and appeal dismissed January 7th, 1858.

609, 425, N. D., and 388, S. D. Archbishop Joseph Sadoc Alemany, claimant for the following missions and land; claim filed February 19th, 1853, confirmed by the commission December 18th, 1855, appeal dismissed in Northern district March 16th, 1857, and in Southern district March 15th, 1858. [The dates of the foundation of the missions were furnished by the Reverend Father José Maria de Jesus Gonzalez, of the Mission of Santa Barbara.]

Mission San Diego, in San Diego county, founded under Carlos III., July 16th, 1769; containing 22.24 acres.

Mission San Luis Rey, in San Diego county, founded under Carlos IV., June 13th, 1798; containing 53.39 acres.

Mission San Juan Capistrano, in Los Angeles county, founded under Carlos III., November 10th, 1776; containing 44.40 acres.

Mission San Gabriel Arcangel, in Los Angeles county, founded under Carlos III., September 8th, 1771; containing 190.69 acres. Patented.

Mission San Buenaventura, in Santa Barbara

county, founded under Carlos III., March 31st, 1782; containing 36.27 acres.

Mission San Fernando, in Los Angeles county, founded under Carlos IV., September 8th, 1797; containing 76.94 acres.

Mission Santa Barbara, in Santa Barbara county, founded under Carlos III., December 4th, 1786; containing 37.83 acres.

Mission Santa Inez, in Santa Barbara county, founded under Carlos IV., September 17th, 1804; containing 17.35 acres.

Mission La Purisima Conception, in Santa Barbara county, founded under Carlos III., December 8th, 1787.

Mission San Luis Obispo, in San Luis Obispo county, founded under Carlos III., September 1st, 1772; containing 52.72 acres. Patented.

Mission San Miguel Arcangel, in San Luis Obispo county, founded under Carlos IV., July 25th, 1797; containing 33.97 acres. Patented.

Mission San Antonio de Padua, in San Luis Obispo county, founded under Carlos III., July 14th, 1771; containing 33.19 acres. Patented.

Mission La Soledad, in Monterey county, founded under Carlos IV., October 9th, 1791; containing 34.47 acres. Patented.

Mission El Carne or San Carlos de Monterey, in Monterey county, founded under Carlos III., June 3d, 1770; containing 9 acres. Patented.

Mission San Juan Bautista, in Monterey county, founded under Carlos IV., June 24th, 1797; containing 55.23 acres. Patented.

Mission Santa Cruz, in Santa Cruz county, founded under Carlos IV., August 28th, 1791; containing 16.94 acres. Patented.

Mission Santa Clara, in Santa Clara county, founded under Carlos III., January 18th, 1777; containing 13.13 acres. Patented.

Mission San José, in Alameda county, founded under Carlos IV., June 11th, 1797; containing 28.33 acres. Patented.

Mission Dolores or San Francisco de Assis, in San Francisco county, founded under Carlos III., October 9th, 1776; two lots, one containing 4.3 acres and the other 4.51 acres. Patented.

Mission San Rafael Arcangel, in Marin county, founded under Fernando VII., December 18th, 1817; containing 6.48 acres. Patented.

Mission San Francisco Solano, in Sonoma county, founded under Fernando VII., August 25th, 1813; containing 14.20 acres.

Cañada de los Pinos or College Rancho, 6 square leagues, in Santa Barbara county; containing 35,499.37 acres. Patented.

La Laguna, 1 square league, in San Luis Obispo county; containing 4,157.02 acres. Patented.

Two Gardens, in San Luis Obispo county.

610, 187, S. D., 356. Leander Bansom, claimant for Los Laureles, 2,000 varas square, in Monterey county, granted March 13th, 1844, by Manuel Micheltorena to José Agricia; claim filed February 21st, 1853, rejected by the commission August 29th, 1854, and confirmed by the district court June 2d, 1857.

611, 230, N. D. Jacob P. Leese, claimant for Lac, 1,000 varas square, in Sonoma county, granted July 25th, 1844, by Manuel Micheltorena to Damoso Rodriguez; claim filed February 21st, 1853, confirmed by the commission December 12th, 1854, and by the district court December 28th, 1857, and appeal dismissed December 28th, 1857.

612, 195, N. D. Andres Pico, claimant for 400 varas square. Mission Dolores, granted February 10th, 1846, by Pico to José Prudencio Santillan; claim filed February 21st, 1853, and rejected by the commission January 23d, 1855.

613, William Cary Jones et al., claimants for Potrero de San Francisco, one-half square league, in San Francisco county, granted May 1st, 1844, by Manuel Micheltorena to Ramon de Haro and Francisco de Haro; claim filed February 23d, 1853, and discontinued November 27th, 1855.

614, 99, S. D., 51. John Wilson et al., claimants for Saucito, one by one-half league, in Monterey county, granted May 22d, 1833, by José Figueroa to Craciano Manjares; claim filed February 23d, 1853, confirmed by the commission February 7th, 1854, by the district court December 29th, 1856, and appeal dismissed January 21st, 1858; containing 2,211.65 acres.

615, 160, S. D. Maria Antonia Pico de Castro et al., claimants for Corral de Padilla, 2,000 varas square, granted March 7th, 1836, by Nicolas Gutierrez to Baldomero; claim filed February 23d, 1853, rejected by the commission March 14th, 1854, and appeal dismissed for failure of prosecution October 24th, 1855.

616, 364, N. D. Jonathan D. Stevenson et al., claimants for Medanos, 2 square leagues, in Contra Costa county, granted November 26th, 1839, by Juan B. Alvarado to José Antonio Mesa et al.; claim filed February 24th, 1853, confirmed by the commission June 19th, 1855, by the district court October 16th, 1856, and appeal dismissed April 2d, 1857; containing 8,890.26 acres.

617, 373, N. D. José de Jesus Bernal et al, claimants for Cañada de Pala, 8,000 by 1,200 varas, in Santa Clara county, granted August 9th, 1839, by José Castro to J. de Jesus Bernal; claim filed February 24th, 1853, confirmed by the commission June 26th, 1855, and appeal dismissed May 7th, 1857; containing 15,714.10 acres.

618, 166, S. D., 456. Jesus Machado, claimant for Buenavista, one-half square league, in San Diego county, granted July 8th, 1845, by Pio Pico to Felipe; claim filed February 24th, 1853, confirmed by the commission May 16th, 1854, by the district court February 1st, 1856, and appeal dismissed February 24th, 1857.

619, 355, N. D. José Noriega, claimant for 4 suertes, in Santa Clara county, granted December 5th, 1845, by Mariano Castro to J. Noriega; claim filed February 24th, 1853, rejected by the commission July 3d, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.

620, 172, S. D., 79. Rafael Castro, claimant for Aptos, 1 square league, in Santa Cruz county, granted November 16th, 1833, by José Figueroa to R. Castro; claim filed February 24th, 1853, confirmed by the commission May 16th, 1854, by the district court October 11th, 1855, and appeal dismissed February 23d, 1857; containing 6,685.91 acres. Patented.

621, 338, S. D. Richard S. Den, claimant for Mission of Santa Barbara, in Santa Barbara county, granted June 10th, 1846, by Pio Pico to R. S. Den; claim filed February 24th, 1853, and confirmed by the commission June 12th, 1855.

622, 326, S. D. Petronillo Rios, claimant for Mission of San Miguel, in San Luis Obispo county, granted July 4th, 1846, by Pio Pico to William Reed, Petronillo Rios and Miguel Garcia; claim filed February 24th, 1853, rejected by the commission May 15th, 1855, and appeal dismissed for failure of prosecution December 17th, 1856.

623, 271, S. D., 277. Maria Antonio Ortega, claimant for Atascadero, in San Luis Obispo county, granted May 6th, 1842, by Juan B. Alvarado to Trifon Garcia; claim filed February 24th, 1853, rejected by the commission January 2d, 1855, and appeal dismissed for failure of prosecution February 11th, 1857.

624, 209, S. D., 201. Carlos C. Espinoza, claimant for Posa de los Ositos, 4 square leagues, in Monterey county, granted May 7th, 1839, by Juan B. Alvarado to C. C. Espinoza; claim filed

February 24th, 1853, rejected by the commission September 26th, 1854, confirmed by the district court September 26th, 1855, and appeal dismissed February 24th, 1857; containing 16,938.98 acres. Patented.

625, 224, S. D. Ysidro Maria Alvarado, claimant for Monserrate, 3 square leagues, in San Diego county, granted May 4th, 1846, by Pio Pico to Y. M. Alvarado; claim filed February 24th, 1853, rejected by the commission November 14th, 1854, and confirmed by the district court February 16th, 1857.

626, 194, N. D. William Bennitz, claimant for Briesgau, 5 square leagues, in Shasta county, granted July 26th, 1844, by Manuel Micheltorena to Wm. Bennitz; claim filed February 24th, 1853, rejected by the commission September 26th, 1854, confirmed by the district court April 7th, 1856, decree reversed and cause remanded by the U. S. supreme court with direction to dismiss the petition, 23 How. [64 U. S.] 255.

627, 271, N. D., 385. Manuel Rodriguez, claimant for Butano, 1 square league, in Santa Cruz county, informal grant February 19th, 1838, by Juan B. Alvarado, and ratified November 13th, 1844, by Manuel Micheltorena to Romana Sanchez; claim filed February 24th, 1853, confirmed by the commission February 8th, 1855, by the district court November 19th, 1856, and appeal dismissed June 12th, 1857; containing 3,025.65 acres.

628, 262, S. D., 369. Maria Antonia Castro de Anzar et al., claimants for Real de las Aguilas, 7 square leagues, in Monterey county, granted January 17th, 1844, by Manuel Micheltorena to Francisco Arias and Saturnino Cariaga; claim filed February 24th, 1853, rejected by the commission December 12th, 1854, and confirmed by the district court February 9th, 1857.

629, 387, N. D., 190. Ferdinand Vassault, claimant for Camaritos, 300 varas square, in San Francisco county, granted January 21st, 1840, by Juan B. Alvarado to José de Jesus Noé; claim filed February 24th, 1853, confirmed by the commission September 4th, 1855, by the district court March 9th, 1857, and by the U. S. supreme court.

630, 163, N. D. Quentin Ortega, claimant for San Ysidro, 1 square league, in Santa Clara county, granted June 4th, 1833, by José Figueroa to Q. Ortega; claim filed February 25th, 1853, confirmed by the commission August 15th, 1854, by the district court March 22d, 1858, and appeal dismissed March 23d, 1858; containing 4,437.67 acres.

631, 232, S. D., 381. Thomas Blanco's heirs, claimants for 400 by 600 varas, one suerte, in Monterey county, granted August 27th, 1844, by Manuel Micheltorena to Thomas Blanco; claim filed February 25th, 1853, confirmed by the commission December 26th, 1854, and appeal dismissed June 8th, 1857.

632, 245, N. D. James L. Ord, claimant for 2 square leagues, in Tuolumne county, granted in 1844, by Manuel Micheltorena to Solomon Pico; claim filed February 25th, 1853, and rejected by the commission January 23d, 1855.

633, 274, N. D. Sacramento City, claimant for land granted June 18th, 1841, by Juan B. Alvarado to John A. Sutter; claim filed February 25th, 1853, rejected by the commission March 6th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

634, 283, S. D., 108. John H. Watson and D. S. Gregory, claimants for Bolsa de Pajaro, in Santa Cruz county, granted October 1st, 1836, to A. Rodriguez and S. Rodriguez; claim filed February 25th, 1853, and rejected by the commission March 27th, 1855.

635, 291, S. D. José Manuel Borgas, claimant for El Pajaro, six suertes, in Monterey county, granted March 18th, 1843, by José R. Estrada to J. M. Borgas; claim filed February 25th, 1853. rejected by the commission March 27th, 1855, and appeal dismissed December 18th, 1856.

636, 304, S. D., 303. Maria Concepcion Boronda, claimant for Potrero de San Luis Obispo, 1 square league, in San Luis Obispo county, granted November 8th, 1842, by Juan B. Alvarado to M. C. Boronda; claim filed February 26th, 1853, confirmed by the commission February 6th, 1855, and appeal dismissed February 3d, 1858; containing 3,506.33 acres.

637, 257, N. D. Peter H. Burnett, claimant for lot in Sacramento City granted June 18th, 1841, by Juan B. Alvarado to John A. Sutter; claim filed February 26th, 1853, rejected by the commission January 23d, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

638, 233, N. D. Ellen White et al., widow and heirs of Charles White, claimants for Pala, 1 square league, in Santa Clara county, granted November 5th, 1835, by José Castro to José Higuera; claim filed February 26th, 1853, confirmed by the commission December 19th, 1854, by the district court February 23d, 1857, and appeal dismissed February 9th, 1858; containing 4,454.08 acres.

639, 243, N. D. City of Sonora, claimant for 1 square mile; claim filed February 26th, 1853, rejected by the commission January 23d, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

640, Rufus Rowe et al., claimants for part of Las Pulgas, 1½ square leagues, in San Mateo county, granted in 1820, by Pablo V. de Sola and José Castro to Luis Argello; claim filed February 28th, 1853, and discontinued by claimant March 13th, 1855. (See No. 2.)

641, 265, N. D. Antonio Maria Osio, claimant for land in Santa Clara county, near the Mission, granted June 23d, 1846, by José Castro to A. M. Osio; claim filed February 28th, 1853. rejected by the commission February 6th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

642, 206, N. D. Maria Concepcion Valencia de Rodriguez et al., claimants for San Francisquito, 8 suertes of 200 varas square each, in Santa Clara county, granted May 1st, 1839, by Juan B. Alvarado to Antonio Buelna; claim filed February 28th, 1853, confirmed

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by the commission November 28th, 1854, by the district court February 4th, 1856, and appeal dismissed April 2d, 1857; containing 2,250.98 acres.

643, 124, N. D., 255. Julio Carrillo, claimant for part of Cabeza de Santa Rosa, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the commission April 4th, 1854, by the district court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 4,500.42 acres.

644, 128, N. D., 255. Jacob R. Mayer et al., claimants for part of Cabeza de Santa Rosa, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the commission April 4th, 1854, by the district court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 1,484.82 acres.

645, 126, N. D., 255. James Eldridge, claimant for part of Cabeza de Santa Rosa, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the commission April 4th, 1854, by the district court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 1,667.68 acres.

646, 127, N. D., 255. Felicidad Carrillo, claimant for part of Cabeza de Santa Rosa, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the commission April 4th, 1854, and by the district court March 2d, 1857.

647, 125, N. D., 255. Juana de Jesus Mallagh, claimant for part of Cabeza de Santa Rosa, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the commission April 4th, 1854, by the district court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 256.16 acres.

648, 314, N. D. Maria Teodora Peralta, claimant for Buacocho, 2 ½ square leagues, in Marin county, granted February 18th, 1846, by Pio Pico to M. T. Peralta; claim filed February 28th, 1853, and rejected by the commission April 3d, 1855.

649, 149, N. D., 200. Otto H. Frank et al., claimants for part of Napa, 6,156 acres, in Napa county, granted by Juan B. Alvarado to Salvador Vallejo; claim filed February 28th, 1853, confirmed by the commission August 22d, 1854, by the district court June 12th, 1858, and appeal dismissed June 12th, 1858.

650, 198, S. D., 4. Joaquin Soto, claimant for Cañada de la Carpenteria, one-half square league, in Monterey county, granted September 25th, 1845, by José Castro to J. Soto; claim filed February 28th, 1853, confirmed by the commission August 15th, 1854, by the district court October 12th, 1855, and appeal dismissed February 24th, 1857; containing 2,236.13 acres.

651, 384, N. D., 359. James Williams, Maria Louisa Carson and John S. Williams, widow and son of John S. Williams, the heirs and legal representatives of Edward A. Farwell, and the heirs of John Potter, claimants for Rancho de Farwell, called Arroyo Chico in Jimeno's Index, 5 square leagues, in Butte county, granted March 29th, 1844, by Manuel Micheltorena to Edward A. Farwell; claim filed February 28th, 1853, confirmed to claimants, except the heirs of J. Potter, by the commission August 28th, 1855, by the district court nunc pro tunc June 15th, 1858, and appeal dismissed March 21st, 1857; containing 22,193.93 acres.

652, 305, N. D. Benjamin S. Lippincott, claimant for 11 square leagues, in San Joaquin county, granted April 4th, 1846, by Pio Pico to José Castro; claim filed February 28th, 1853, rejected by the commission May 8th, 1855, and appeal dismissed for failure of prosecution April 28th, 1856.

653, Frederick E. Whiting, claimant for Las Animas, in Santa Clara county, granted in 1802, by José Figueroa to Mariano Castro; claim filed February 28th, 1853.

654, 304, N. D. Inocencio Romero et al., claimants for land in Contra Costa county, granted February 4th, 1844, by Manuel Micheltorena to I. Romero et al.; claim filed February 28th, 1853, rejected by the commission April 17th, 1855, and by the district court September 16th, 1857.

655, 272, N. D. George Swat, claimant for Nueva Flandria, 3 square leagues, granted in 1844, by Manuel Micheltorena to G. Swat; claim filed February 28th, 1853, rejected by the commission March 27th, 1855, and by the district court October 5th, 1857.



656, 415, N. D. John A. Sutter, for Moquelumne Indians, claimant for 4 square leagues, in Sacramento county, granted December 22d, 1844, by Manuel Micheltoarena to Moquelumne Indians; claim filed February 28th, 1853, and confirmed by the commission November 20th, 1855.

657, 375, N. D., 305. Martin E. Cook et al., claimants for part of Malacomes or Moristal, 2 miles square, in Sonoma county, granted October 1843, by Manuel Micheltoarena to José de los Santos Berreyesa; claim filed February 28th, 1853, confirmed by the commission August 7th, 1855, and appeal dismissed April 16th, 1857; containing 2,559.94 acres. Patented.

658, 286, N. D. Nathaniel Bassett, claimant for Los Coluses, 4 square leagues, in Colusi county, granted in 1844, by Manuel Micheltoarena to Juan Daubenbiss; claim filed February 28th, 1853, confirmed by the commission March 20th, 1855, by the district court April 17th, 1856, decree reversed by the U. S. supreme court and cause remanded with direction to dismiss the petition, 21 Howard [62 U. S.] 412.

659, 235, N. D., 255. John Hendley, claimant for part of Cabeza de Santa Rosa, 1 mile square, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ygnacia Lopez; claim filed February 28th, 1853, confirmed by the commission December 19th, 1854, by the district court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 640.19 acres.

660, 396, N. D., 266. J. H. Fine, claimant for part of Suisun, in Solano county, granted January 28th, 1842, by Juan B. Alvarado to Francisco Solano; claim filed February 28th, 1853, confirmed by the commission December 4th, 1855, and appeal dismissed August 20th, 1857.

661, 252, N. D. E. R. Carpentier, claimant for 10 square leagues, in Contra Costa county, a portion granted by P. V. de Sola, another portion granted in 1841 to Juan José and Victor Castro by Juan B. Alvarado, and another portion granted by José Figueroa to Francisco Castro, and regranted in 1844 by Manuel Micheltoarena to Luis Peralta; claim filed February 28th, 1853. rejected by the commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

662, H. W. Carpentier, claimant for 225 acres, in Contra Costa county, granted by P. V. de Sola and Manuel Micheltoarena to Luis Peralta; claim filed February 28th, 1853, and discontinued by claimant January 23d, 1855.

663, 422, N. D., and 387, S. D. Joseph Sadoc Alemany, claimant, in behalf of the Christianized Indians formerly connected with the missions of Upper California: 1st. In behalf of the Indians of Santa Clara, under a grant by Manuel Micheltoarena, June 10th, 1844, for all the vacant lands of Santa Clara ungranted before that time. 2d. In behalf of the Indians for lands known as Las Gallinas, El Nacimiento and La Estrella, in San Luis Obispo county, under a grant of Manuel Micheltoarena, July 16th, 1844. 3d. In behalf of

sixteen neophytes, for small tracts of land, from 100 to 300 acres each, in the vicinity of the Mission of Santa Ynes, Santa Barbara county. 4th. And in behalf of the Indians generally, one square league in each of the 21 missions (see No. 609). Claim filed February 28th, 1853, rejected by the commission December 31st, 1855, appeal dismissed for failure of prosecution in the Northern district February 23d, 1857, and in the Southern district December 22d, 1857.

664, 259, N. D., 349. L. Hoover, administrator, claimant for 5 square leagues, called Rio de las Plumas in Jimeno's Index, in Butte county, granted February 21st, 1844, by Manuel Micheltoarena to Charles W. Flugge; claim filed March 1st, 1853, rejected by the commission January 23d, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

665, 322, S. D., 81. Heirs of David Littlejohn, claimants for Los Carneros, 1 square league, in Monterey county, granted June 28th, 1834, by José Figueroa to David Littlejohn; claim filed March 1st, 1853, confirmed by the commission May 22d, 1855, and appeal dismissed February 1st, 1858; containing 4,482.38 acres.

666, 236, N. D., 322. A. Randall, claimant for Punta de los Reyes, 11 square leagues, in

Marin county, granted November 30th, 1813, by Manuel Micheltoarena to Antonio M. Osio; claim filed March 1st, 1853, confirmed by the commission January 9th, 1855, by the district court December 28th, 1858, and appeal dismissed May 24th, 1858; containing 48,189.34 acres. Patented.

667, 283, N. D., 343. José M. Revere, claimant for San Geronimo, 2 square leagues, in Marin county, granted February 12th, 1844, by Manuel Micheltoarena to Rafael Cacho; claim filed March 1st, 1853, confirmed by the commission February 13th, 1855, by the district court June 26th, 1858, and appeal dismissed June 26th, 1858; containing 8,701 acres. Patented.

668, 279, S. D. Bruno Bernal, claimant for El Alisal, 1½ square leagues, in Monterey county, granted June 26th, 1834, by José Figueroa to Feliciano Soberanes et al.; claim filed March 1st, 1853, confirmed by the commission January 23d, 1855, by the district court January 13th, 1857, and appeal dismissed March 4th, 1858; containing 5,941.12 acres.

669, 335, N. D., 566. Francisco Arce, claimant for 50 by 60 varas, in Santa Clara county, granted June 3d, 1846, by Pio Pico to F. Arce; claim filed March 1st, 1853, confirmed by the commission June 12th, 1855, and by the district court March 9th, 1857.

670, 151, N. D. Presentacion de Ridley et al., claimants for Cañada de Guadalupe, 2 square leagues, granted July 31st, 1841, by Juan B. Alvarado to Jacob P. Leese; claim filed March 1st, 1853, rejected by the commission August 1st, 1854, and by the district court December 28th, 1857.

671, 165, N. D. C. S. de Bernal et al., claimants for 200 varas square, Mission Dolores, granted in 1834; by José Figueroa to José C. Bernal; claim filed March 1st, 1853, confirmed by the commission August 8th, 1854, by the district court March 24th, 1856, and appeal dismissed April 1st, 1857; containing 6.32 acres.

672, 178, N. D. José de la Cruz Sanchez, claimant for San Mateo, 2 square leagues, in San Mateo county, petitioned for by J. de la Cruz Sanchez in December, 1836, and April, 1844; claim filed March 1st, 1853, and rejected by the commission September 19th, 1854.

673, 206, S. D. Francisco Soberanes, claimant for Sanjon de Santa Rita, 11 square leagues, in Merced and Fresno counties, granted September 7th, 1841 by Juan B. Alvarado to F. Soberanes; claim filed March 1st, 1853, rejected by the commission September 19th, 1854, confirmed by the district court February 9th, 1858, and appeal dismissed November 1st, 1860; containing 48,823.84 acres.

674, 277, S. D. Rafael Sanchez, claimant for San Lorenzo, 11 square leagues, in Monterey county, granted July 27th, 1846, by Pio Pico to R. Sanchez; claim filed March 1st, 1853, rejected by the commission January 13th, 1855, confirmed by the district court March 6th, 1856, and appeal dismissed February 24th, 1857; containing 48,285.95 acres.

675, 225, S. D. Nicolas Morchon, claimant for Cahuenga, 4 square leagues, in Los Angeles county, granted July 29th, 1846, by José Castro to Luis Arenas; claim filed

March 1st, 1853, rejected by the commission October 24th, 1854, and by the district court September 13th, 1859.

676, John B. Frisbie, claimant for Matzultaquea, 4 square leagues, in Los Angeles county, granted in 1845, by Pio Pico to Ramon Carrillo; claim filed March 1st, 1853, and discontinued.

677, 215, N. D., 45. Joaquin Higuera, claimant for Pala, 1 square league, in Santa Clara county, granted November 5th, 1835, by José Castro to José Higuera; claim filed March 1st, 1853, rejected by the commission December 26th, 1854, and appeal dismissed for failure of prosecution April 21st, 1856.

678, 282, S. D., 113. Miguel Villagran, claimant for Aguajito, 500 varas square, in Santa Cruz county, granted November 20th, 1837, by Juan B. Alvarado to M. Villagran; claim filed March 1st, 1853, and confirmed by the commission February 20th, 1855.

679, 300, S. D. Vicente Gomez et al., claimants for El Tucho, 1,500 varas square, in Monterey county, granted December 4th, 1843, by José B. Estrada to José Joaquin Gomez; claim filed March 1st, 1853, and rejected by the commission March 27th, 1855.

680, 384, S. D., 297. Maria Antonia Castro de Anzar et al., claimants for Los Carneros, 1 square league, in Monterey county, granted October 7th, 1842, by Juan B. Alvarado to Maria Antonia Linares; claim filed March 1st, 1853, confirmed by the commission August 28th, 1855. by the district court December 9th, 1856, and appeal dismissed March 4th, 1858; containing 1,628.70 acres.

681, 330, S. D., 159. Ermenegildo Vasquez, claimant for 500 by 400 varas, in Monterey county, granted November 6th, 1835, by José Castro to E. Vasquez; claim filed March 1st, 1853, rejected by the commission March 27th, 1855, and appeal dismissed for failure of prosecution December 28th, 1856.

682, C. S. de Bernal, claimant for 200.yaras square, in San Francisco county, granted in 1833, by José Figueroa to José C. Bernal; claim filed March 1st, 1853, and discontinued January 23d, 1855. (See No. 671.)

683, 417, N. D. Hiram Grimes, claimant for part of New Helvetia, in Yuba and Sutter counties, granted June 18th, 1841, by Juan B. Alvarado to John A. Sutter; claim filed March 1st, 1853, rejected by the commission January 15th, 1856, and confirmed by the district court March 6th, 1857.

684, 404, N. D. Juan B. Alvarado, claimant for Nicasio, 20 square leagues, in Marin county, granted March 13th, 1835, by José Figueroa to Teodocio Quilajuequi et al., Indians; claim filed March 1st, 1853. rejected by the commission September 25th, 1855, and appeal dismissed for failure of prosecution February 4th, 1858.

685, 290, N. D. Henry C. Smith, claimant for one-fourth league, in Santa Clara county, granted November 2d, 1844, by Miguel Muro (priest) to Buenaventura et al., (neophytes);

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claim filed March 1st, 1853, rejected by the commission March 27th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

686, 277, N. D. William C. Jones et al., claimants for San Pablo, 3 square leagues, in Contra Costa county, granted June 12th, 1834, by José Figueroa to Francisco Maria Castro; claim filed March 1st, 1853, rejected by the commission March 27th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

687, 196, N. D. José de Arnas, claimant for 5 square leagues of Santa Clara mission lands, granted August 1st, 1846, by José Castro to J. de Arnas; claim filed March 2d, 1853, rejected by the commission April 24th, 1855, and by the district court February 11th, 1856.

688, 324, S. D. Juan Temple and David W. Alexander, claimants for 100 varas square, in Los Angeles county, granted March 11th, 1834, by José Figueroa to José A. Carrillo and Abel Stearns; claim filed March 2d, 1853, rejected by the commission May 22d, 1855, and confirmed by the district court April 3d, 1861.

689, 278, S. D. Maria Antonio Pico et al., claimants for Bolsa de San Cayetano, in Monterey county, granted by Don Pablo de Sola, and October 18th, 1824, by Luis Arguello, to José Dolores Pico and Ignacia Vallejo; claim filed

March 2d, 1853, rejected by the commission January 30th, 1855, and appeal dismissed for failure of prosecution March 7th, 1860.

690, 405, N. D., 26. Rufina Castro et al., claimants for Solis, in Santa Clara county, granted by José Figueroa to Mariano Castro; claim filed March 2d, 1853, rejected by the commission December 4th, 1855, confirmed by the district court May 1st, 1856, and appeal dismissed March 24th, 1857; containing 8,875.46 acres. Patented.

691, 291, N. D., 185. James Enright et al., claimants for Medano, (see No. 616) 2 square leagues, in Contra Costa county, granted November 26th, 1839, by Juan B. Alvarado to José Antonio and José Maria Meza; claim filed March 2d, 1853, rejected by the commission March 27th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

692, 337, N. D. Guillermo Castro, claimant for land in Alameda county, granted January 14th, 1840, by Juan B. Alvarado to G. Castro; claim filed March 2d, 1853, rejected by the commission May 15th, 1855, and appeal dismissed for failure of prosecution March 9th, 1857.

693, 344, N. D. José Castro et al., claimants for 11 square leagues, on the San Joaquin river, (see Nos. 320 and 652) granted April 4th, 1846, by Pio Pico to José Castro; claim filed March 2d, 1853, confirmed by the commission May 8th, 1855, by the district court November 4th, 1858, and judgment of the circuit court reversed by the U. S. supreme court with direction to dismiss the petition, 24 Howard [65 U. S.] 346.

694, 141, N. D., 200. Ann McDonald et al., claimants for part of Napa, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission April 25th, 1854, by the district court February 18th, 1857, and appeal dismissed April 1st, 1857.

695, Thomas Shaddon, claimant for 5 square leagues, in Yolo county, granted December 22d, 1844, by Manuel Micheltorena to T. Shaddon; claim filed March 2d, 1853. Discontinued.

696, 264, N. D. William Blackburn, claimant for Arastradero, 1 square league, in Santa Cruz county, granted November 17th, 1844, by Manuel Rodriguez to Alberto F. Morris; claim filed March 2d, 1853, rejected by the commission January 23d, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

697, 345, S. D. Julian Workman et al., claimants for Mission of San Gabriel, in Los Angeles county, granted June 8th, 1816, by Pio Pico to J. Workman and Hugo Reid; Claim filed March 2d, 1853, confirmed by the commission June 26th, 1855, and by the district court April 1st, 1861.

698, 301, S. D. R. S. Den, claimant for San Antonio, 4,000 yards square, in Los Angeles county, granted April 29th, 1842, by Juan B. Alvarado to Nicholas A. Den; claim filed

March 2d, 1853, rejected by the commission March 27th, 1855, and appeal dismissed for failure of prosecution December 19th, 1856.

699, 400, N. D. Narciso Bennett, claimant for 140 varas square, one solar, in Santa Clara county, granted November 28th, 1845, by Pio Pico to N. Bennett; claim filed March 2d, 1853, rejected by the commission October 23d, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.

700, 317, S. D., 235. Pio Pico et al., claimants for Santa Margarita and Las Flores, in San Diego county, granted May 10th, 1841, by Juan B. Alvarado to Pio Pico and Andres Pico; claim filed March 2d, 1853, and confirmed by the commission April 24th, 1855.

701, 192, N. D. Pedro Chaboya, claimant for 2 square leagues, in Santa Clara county, granted to P. Chaboya; claim filed March 2d, 1853, rejected by the commission October 24th, 1854, and by the district court for failure of prosecution August 29th, 1861.

702, 237, S. D. José and Jaime de Puig Monmany, claimants for Noche Buena, a little less than 1 square league, in Monterey county, granted September 15th, 1835, by José Castro to Juan Antonio Muñoz; claim filed March 2d, 1853, confirmed by the commission October 24th, 1854, by the district court February 14th, 1857, and appeal dismissed January 27th, 1858; containing 4,411.56 acres.

703, 191, N. D.; 179 S. D. Modesta Castro, claimant for Cañada de los Osos, 11 square leagues, in Monterey county, granted October 20th, 1844, by Manuel Micheltorena to M. Castro; claim filed March 2d, 1853, rejected by the commission August 29th, 1854, and appeal dismissed for failure of prosecution October 24th, 1855.

704, 173, N. D. Heirs of Francisco de Haro, claimants for 100 varas square, in Mission Dolores, granted June 28th, 1841, by Francisco Guerrero, justice of the peace, to Francisco de Haro; claim filed March 2d, 1853, rejected by the commission September 19th, 1854, and confirmed by the district court February 1st, 1858.

705, 166, N. D. Heirs of Francisco de Haro, claimants for 50 varas square, in Mission Dolores, granted August 16th, 1843, under a marginal decree by Juan B. Alvarado to Francisco de Haro; claim filed March 2d, 1853, rejected by the commission August 29th, 1854, confirmed by the district court August 24th, 1857, and by the U. S. supreme court, 22 Howard [63 U. S.] 293.

706, 383, N. D. William A. Dana et al., claimants for part of San Antonio, 6,102 acres, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Juan Prado Mesa; claim filed March 2d, 1853, rejected by the commission July 10th, 1855, confirmed by the district court March 3d, 1856, and appeal dismissed March 20th, 1857; containing 3,541.89 acres. Patented.

707, 366, N. D. William A. Dana et al., claimants for part of San Antonio, 2,551 acres, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Juan Prado

Mesa; claim filed March 2d, 1853, rejected by the commission July 10th, 1855, and by the district court March 23d, 1857.

708, 368, N. D. James W. Weeks, claimant for part of San Antonio, 3,051 acres, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Juan Prado Mesa; claim filed March 2d, 1853, rejected by the commission July 10th, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.

709, 354, N. D. Henry C. Curtis, claimant for part of San Antonio, 500 acres, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Juan Prado Mesa; claim filed March 2d, 1853, rejected by the commission July 10th, 1855, and by the district court March 16th, 1857.

710, 378, N. D. William W. White, claimant for part of San Antonio, 100 acres, in Santa Clara county, granted March 24th, 1839, by Juan B. Alvarado to Juan Prado Mesa; claim filed March 2d, 1853, rejected by the commission July 10th, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.

711, 193, N. D. Victor Prudon, claimant for Island of Sacramento, 3½ by 1 league, in the Sacramento river, granted July 6th, 1844, by Manuel Micheltoarena to Victor Prudon; claim filed March 2d, 1853, rejected by the commission October 24th, 1854, and by the district court February 7th, 1858.



712, 357, N. D. Roland Gelston, claimant for 200 by 50 varas, in San Francisco county, granted December 1st, 1838, to William Gulnac; claim filed March 2d, 1853, and rejected by the commission September 4th, 1855.

713, 294, N. D., 102. Juan Alvarez et al., claimants for Laguna Seca, 4 square leagues, in Santa Clara county, granted July 22d, 1834, by José Figueroa to Juan Alvarez; claim filed March 2d, 1853, rejected by the commission March 20th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

714, 382, S. D. City of Monterey, claimant for lands previously assigned to the pueblo, dedication approved by the territorial deputation July 24th, 1830; claim filed March 2d, 1853, confirmed by the commission January 22d, 1856, and appeal dismissed February 1st, 1858.

715, 315, N. D. José Y. Limantour, claimant for 80 square leagues, 10 leagues on the Pacific Ocean, between latitude  $39^{\circ} 18'$  and  $39^{\circ} 48'$  north, running back eight leagues in Mendocino county, south of Cape Mendocino, granted December 20th, 1844, by Manuel Micheltoarena to J. Y. Limantour; claim filed March 2d, 1853, rejected by the commission April 24th, 1855, and appeal dismissed April 28th, 1856.

716, 274, S. D., 351. Thomas Coal, claimant for 250 by 150 varas and 100 varas more, part of Tucho, in Monterey county, granted December 8th, 1842, by Juan B. Alvarado, and 400 varas square, in Monterey county, granted February 28th, 1844, by Manuel Micheltoarena, to T. Coal; claim filed March 2d, 1853, rejected by the commission January 23d, 1855, and confirmed by the district court June 6th, 1857.

717, 225, N. D., 200. Salvador Vallejo, claimant for part of Napa or Francas and Jalapa, 3,020 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission November 7th, 1854, by the district court February 23d, 1857, and appeal dismissed May 13th, 1857; containing 3,178.93 acres.

718, 361, N. D., 485. Mary S. Bennett, claimant for two tracts, one 140 varas square and the other 2,000 by 1,000 varas, in Santa Clara county, near the Mission, granted December, 1845, by Pio Pico to Narciso Bennett; claim filed March 2d, 1853, confirmed by the commission July 10th, 1855, by the district court February 28th, 1857, and appeal dismissed April 14th, 1857; containing 358.51 acres.

719, 154, N. D., 256. Joseph Pope et al., claimants of Locoallomi, 2 square leagues, in Napa county, granted September 30th, 1841, by Manuel Jimeno to Julian Pope; claim filed March 2d, 1853, confirmed by the commission August 1st, 1854, by the district court August 25th, 1856, and appeal dismissed February 9th, 1858; containing 8,872.79 acres.

720, 122, N. D., 200. Horace Inghram, claimant for part of Napa, 74 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim

filed March 2d, 1853, confirmed by the commission April 11th, 1854, and by the district court March 2d, 1857.

721, 146, N. D., 200. James M. Harbin, claimant for part of Napa, 688 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission May 16th, 1854, and by the district court December 23d, 1857.

722, 111, N. D. 200. Hannah McCoombs, claimant for part of Napa, 160 acres in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission April 11th, 1854, and by the district court March 2d, 1857.

723, 123, N. D., 200. Hart and McGarry, claimants for part of Napa, 500 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission April 11th, 1854, by the district court March 2d, 1857.

724, 109, N. D., 200. N. Coombs, claimant for part of Napa, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission April 11th, 1854, and by the district court April 4th, 1861.

725, 116, N. D., 200. A. Farley, claimant for part of Napa, 44 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission April 11th, 1854, and by the district court March 2d, 1867.

726, 120, N. D., 200. George N. Cornwell, claimant for part of Napa, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission April 11th, 1854, and by the district court March 2d, 1857.

727, 118, N. D., 200. John Truebody, claimant for part of Napa, 796 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission April 11th, 1854, and by the district court March 2d, 1857.

728, 113, N. D., 153. R. S. Kilburn, claimant for part of Entre Napa, granted April 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 2d, 1853, confirmed by the commission April 11th, 1854, and by the district court March 30th, 1861.

729, 117, N. D., 200. A. L. Boggs, claimant for part of Napa, 320 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission April 11th, 1854, and by the district court March 2d, 1857.

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730, 110, N. D., 200. J. R. McCoombs, claimant for part of Napa, 487 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission April 11th, 1854, and by the district court April 18th, 1859.

731, 393, N. D., 200. Ogden Wise, claimant for part of Napa, 623.85 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission December 4th, 1855, and appeal dismissed August 6th, 1857.

732, 71, N. D., 200. Julius K. Rose, claimant for part of Napa, 526 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission December 13th, 1853, by the district court October 6th, 1858, and appeal dismissed October 8th, 1858; containing 594.83 acres.

733, 79, N. D., 200. William H. Osborn, claimant for part of Napa, 250 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission December 13th, 1853, by the district court October 6th, 1858, and appeal dismissed October 8th, 1858; containing 259.61 acres.

734, 66, N. D., 200. Lyman Bartlett, claimant for part of Napa, 1 square mile, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission

December 13th, 1853, by the district court April 21st, 1856, and appeal dismissed April 2d, 1857; containing 679.52 acres.

735, 313, N. D., 200. Eben Knight, claimant for part of Napa, one-half mile square, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, and rejected by the commission March 27th, 1855.

736, 76, N. D., 200. James McNeil, claimant for part of Napa, 450 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, and confirmed by the commission December 13th, 1853.

737, 139, N. D., 200. Archibald A. Ritchie, claimant for part of Napa, 150 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission April 25th, 1854, and by the district court March 2d, 1857.

738, 164, S. D. City of San Luis Obispo, claimant for 4 square leagues, claim filed March 2d, 1853, rejected by the commission August 1st, 1854. and appeal dismissed for failure of prosecution October 24th, 1855.

739, 327, N. D., 229. Joseph Hooker, claimant for part of Agua Caliente, in Sonoma county, granted July 13th, 1840, by Juan B. Alvarado to Lazaro Piña; claim filed March 2d, 1853. confirmed by the commission April 24th, 1855, by the district court March 2d, 1857, and appeal dismissed March 27th, 1857; containing 550.86 acres.

740, 372, N. D., 208. Benjamin R. Buckelew, claimant for Punta de Quentin, 2 square leagues, in Marin county, granted September 24th, 1840, by Juan B. Alvarado to Juan B. R. Cooper; claim filed March 2d, 1853, confirmed by the commission July 10th, 1855, and by the district court March 30th, 1857.

741, 153, N. D. Mariano G. Vallejo, claimant for Agua Caliente, in Sonoma county, granted July 13th, 1840, by Juan B. Alvarado to Lazaro Piña; claim filed March 2d, 1853, rejected by the commission August 1st, 1854, and confirmed by the district court July 13th, 1859.

742, 412, N. D. J. W. Redman et al., claimants for Orchard of Santa Clara, 10 acres, granted June 30th, 1846, by Pio Pico to Benito Dias, Juan Castañeda and Luis Arenas; claim filed March 2d, 1853, rejected by the commission December 18th, 1855, and by the district court May 21st, 1858.

743, John A. Sutter, claimant for surplus lands of New Helvetia, 22 square leagues, in Yuba and Sutter counties, granted February 5th, 1845, by Manuel Micheltorena to John A. Sutter; claim filed March 2d, 1853. Discontinued.

744, 142, N. D. Guadalupe Mining Company, claimant for part of Cañada de los Capitancillos, described by boundaries, in Santa Clara county, granted September 1st, 1842, by Juan B. Alvarado to Justo Larios; claim filed March 2d, 1853, confirmed by the commission May 2d, 1854, and by the district court August 17th, 1857. (See No. 340.)

745, 285, N. D., 245. Henry R. Payson, claimant for Cañada de Guadalupe and Visitation y Rodeo Viejo, 2 square leagues, in San Mateo county, granted July 31st, 1841, by Juan B. Alvarado to Jacob P. Leese; claim filed March 2d, 1853, confirmed by the commission January 30th, 1855, by the district court June 18th, 1856, and appeal dismissed April 1st, 1857; containing 9,594.90 acres.

746, 293, N. D. Mowry W. Smith, claimant for part of Las Pulgas, 7,000 acres, in San Mateo county, granted in 1835, by P. V. de Sola and José Castro to Luis Arguello; claim filed March 2d, 1853, rejected by the commission February 20th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

747, 383, S. D. Thomas Russell, claimant for 800 varas square, in Santa Cruz county, granted in 1838, by José R. Estrada, Prefect to José R. Buelna, and Potrero and Rincon de San Pedro, 500 varas from east to west and 600 varas from north to south, granted in 1842 by José Jimeno to José Arana; claim filed March 2d, 1853, grant of 800 varas rejected and grant by Jimeno confirmed by the commission January 30th, 1855, and by the district court June 18th, 1859.

748, Martin Murphy, Sr., claimant for part of Las Animas, one-eighth of 12 square leagues, in Santa Clara county, granted August 17th, 1802, by Marquina, and August 7th, 1835, by José Figueroa, to Mariano Castro; claim filed March 2d, 1853, and discontinued April 3d, 1855. (See No. 161.)

749, 295, S. D. Talbot H. Green, claimant for land under a grant of the ayuntamiento of the town of Monterey of April 23d, 1846; claim filed March 2d, 1853, rejected by the commission. March 27th, 1855, and appeal dismissed December 18th, 1856.

750, William Carey Jones et al., claimants for part of Las Pulgas, in San Mateo county, granted in 1835, by P. V. de Sola to Luis Arguello; claim filed March 2d, 1853, and discontinued August 1st 1854. (See No. 2.)

751, 414, N. D. Clement Panaud et al., claimants for Garden of San Cayetano, 1,000 by 200 varas, in Santa Clara county, granted August 1845, by Pio Pico to Juan B. Alvarado; claim filed March 2d, 1853, rejected by the commission February 8th, 1855, and by the district court October 2d, 1860.

752, 385, S. D. Clement Panaud et al., claimants for Orchard of San Juan Bautista, 400 varas square, in Monterey county, granted May 4th, 1846, by Pio Pico to Oliver Deleisiguez; claim filed March 2d, 1853, and confirmed by the commission December 18th, 1855.

753, 379, S. D. Adolph Canil et al., claimants for Arias Rancho, 1 square league, in Monterey county, granted December 10th, 1839, by José Castro to Francisco Arias; claim filed March 2d, 1853, rejected by the commission February 27th, 1855, and by the district court June 17th, 1859.

754, 402, N. D. Thomas O. Larkin, claimant for Mission Santa Clara Orchard, 15 acres, in Santa Clara county, granted June 30th, 1846, by Pio Pico to Juan Castañeda, Luis Arenas and Benito Dias; claim filed March 2d, 1853, rejected by the commission December 18th, 1855, and by the district court May 21st, 1858.

755, James Stokes, claimant for La Natividad, 850 acres, in Monterey county, granted by Juan B. Alvarado to Nicolas Alviso and Manuel Butron; claim filed March 2d, 1853. Discontinued.

756, Charles Brown et al., claimants for 4 square leagues, in Napa county, granted in 1834, by Hajar, styled Governor, to C. Brown et al.; claim filed March 2d, 1853. Discontinued.

757, 388, N. D. Nicolas Berreyesa, claimant for Las Milpitas, in Santa Clara county, under a decree signed by Pedro Chaboya, first alcalde of the Ayuntamiento of San José of May 6th, 1834, to N. Berreyesa; claim filed March 2d, 1853, and rejected by the commission October 16th, 1855.

758, 377, S. D. James Stokes, claimant for 3 suertes, in Monterey county, granted January 2d, 1843, by José R. Estrada, prefect of the First district, to José C. Boronda; claim filed March 2d, 1853, rejected by the commission October

2d, 1855, and appeal dismissed for failure of prosecution December 22d, 1856.

759, 369, N. D. John A. Sutter, claimant for town of Sutter, in Sacramento county; claim filed March 2d, 1853, rejected by the commission July 17th, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.

760, 333, N. D. Thaddeus M. Leavenworth, claimant for part of Agua Caliente, in Sonoma county, granted July 13th, 1840, by Juan B. Alvarado to Lazaro Piña; claim filed March 2d, 1853, confirmed by the commission April 24th, 1855, by the district court March 2d, 1857, and appeal dismissed April 3d, 1857; containing 320.33 acres.

761, 260, N. D. Robert Hopkins claimant for part of Entre Napa, 80 acres, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 2d, 1853, rejected by the commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

762, 258, N. D., 255. Oliver Boulio, claimant for part of Cabeza de Santa Rosa, 640 acres, in Sonoma county, granted September 30th, 1841, by Manuel Jimeno to Maria Ignacia Lopez; claim filed March 2d, 1853, rejected by the commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

763, 169, N. D., 200. John E. Brown, claimant for part of Napa, 110 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission September 5th, 1854, by the district court March 2d, 1857, and appeal dismissed March 21st, 1857.

764, Charles B. Strobe, claimant for part of San Antonio, 5,000 acres, in Alameda county, granted by P. V. de Sola and Luis Antonio Arguello to Luis Peralta; claim filed March 2d, 1853. Discontinued.

765, Charles B. Strobe, claimant for part of San Antonio, 10,000 acres in Alameda county, granted by P. V. de Sola and Luis Antonio Arguello to Luis Peralta; claim filed March 2d, 1853. Discontinued.

766, 248, N. D., .39. Victoria D. Estudillo et al., claimants for Temecula, square leagues, in San Diego county, granted February 11th, 1835, by José Figueroa to José Antonio Estudillo; claim filed March 2d, 1853, rejected by the commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

767, 413, N. D. Francisco Rico et al., claimants for Rancheria del Rio Estanislao, 11 square leagues, in San Joaquin and Calaveras counties, granted December 29th, 1843, by Manuel Micheltorena to Francisco Rico and José Antonio Castro; claim filed March 2d, 1853, confirmed by the commission October 16th, 1855, by the district court November 10th, 1856, and appeal dismissed April 1st, 1857; containing 48,886.64 acres.

768, 279, N. D. José Jesus Berreyesa, claimant for Yucuy, 8 square leagues, near Clear Lake, granted May 29th, 1846, by José de los Santos Berreyesa to J. J. Berreyesa; claim

filed March 2d, 1853, rejected by the commission March 27th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

769, 293, S. D. 118. Charles Morse et al., claimants for La Laguna de las Calabasas, one and one-fourth by one-half league, in Santa Cruz county, granted December 30th, 1833, by José Figueroa to Felipe Hernandez; claim filed March 2d, 1853, rejected by the commission March 27th, 1855, and confirmed by the district court June 17th, 1858.

770, Martin Murphy, claimant for 300 acres, granted by Manuel Micheltorena to Shelton; claim filed March 2d, 1853, and rejected by the commission March 27th, 1855. Discontinued.

771, 309, N. D. 90. Robert Cathcart, administrator, claimant for Sayente, 2 by 1 league, in Santa Cruz county, granted October, 1833, by José Figueroa to Joaquin Buelna; claim filed March 2d, 1853, rejected by the commission April 17th, 1855, and appeal dismissed for failure of prosecution April 28th, 1856.

772, 385, N. D. A. Randall, claimant for 2 square leagues, in Marin county, granted March 17th, 1836, by Juan B. Alvarado to James Richard Berry; claim filed March 2d, 1853, confirmed by the commission September 11th, 1855, by the district court December 28th, 1857, and appeal dismissed May 24th, 1858; containing 8,887.68 acres. Patented.

773, 114, N. D., 200. L. D. Brown et al., claimants for part of Napa, 640 acres, in Napa county, granted September 21st, 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 2d, 1853, confirmed by the commission April 11th, 1854, and by the district court March 2d, 1857.

774, 263, N. D. Paula Sanchez de Valencia, claimant for Buri Buri, two-tenths of 4 square leagues, in San Mateo county, granted provisionally by Luis Antonio Arguello December 11th, 1827, and by José Castro September 23d, 1835, to José Sanchez; claim filed March 2d, 1853, rejected by the commission January 30th, 1855, (confirmed in No. 97) and appeal dismissed for failure of prosecution April 21st, 1856.

775, 325, N. D. C. P. Stone, claimant for part of Agua Caliente, 300 acres, in Sonoma county, granted July 13th, 1840, by Juan B. Alvarado to Lazaro Piña; claim filed March 2d, 1853, confirmed by the commission April 24th, 1855, by the district court March 2d, 1857, and appeal dismissed March 31st, 1857.

776, 306, N. D. Francis J. White, claimant for 300 acres, in Sacramento county, granted by Juan B. Alvarado to John A. Sutter; claim filed March 2d, 1853, rejected by the commission April 17th, 1855, and appeal dismissed for failure of prosecution April 28th, 1856.

777, 254, N. D. Widow and heirs of Anastasio Chabolla claimants for 3 suertes, in San José, Santa Clara county, granted in 1785 by authority of the king of Spain to Mazario Laez; claim filed March 2d, 1853, rejected by the commission January 30th, 1855, and claim dismissed by the district court for failure of prosecution January 8th, 1858.



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778, 220. Barcellia Bernal, claimant for Embarcadero de Santa Clara, 1,000 varas square, in Santa Clara county, granted June 18th, 1845, by Pio Pico to B. Bernal; claim filed March 2d, 1853. Discontinued.

779, 198, N. D. Barcellia Bernal, claimant for 1 square league, in Santa Clara county, granted in 1845 or 1846 by the governor of California to B. Bernal et al.; claim filed March 2d, 1853, and rejected by the commission March 6th, 1855.

780, 317, N. D. José Y. Limantour, claimant for Lupyomi, 11 square leagues, granted October 20th, 1844, by Manuel Micheltorena to José Y. Limantour; claim filed March 2d, 1853, rejected by the commission April 24th, 1855, and by the district court March 11th, 1857.

781, 311, S. D. José Y. Limantour, claimant for Laguna de Tache. 11 square leagues; granted December 4th, 1843, by Manuel Michel torena to José Y. Limantour; claim filed March 2d, 1853, rejected by the commission April 24th, 1855, and appeal dismissed for failure of prosecution December 17th, 1856. ;

782, 314, S. D. José Y. Limantour, claimant for Cienega del Gabilan, 11 square leagues, in, Monterey county, granted October 26th, 1843, by, Manuel Micheltorena to Antonio Chavis; claim

filed March 2d, 1853, rejected by the commission April 24th, 1855 and confirmed by the district court February 4th, 1858.

783, 321, S. D. José Y. Limantour, claimant for Cajuenga, 6 square leagues, in Los Angeles county, granted February 7th, 1845, by Manuel Micheltoarena to José Y. Limantour; claim filed March 2d, 1853, rejected by the commission April 24th, 1855, and appeal dismissed for failure of prosecution December 17th, 1856.

784, 307, N. D. José Y. Limantour, claimant for Ojo de Agua, 400 varas square, near the mission of San Francisco Solano, granted December 20th, 1844, by Manuel Micheltoarena to José Y. Limantour; claim filed March 2d, 1853, rejected by the commission April 24th, 1855, and by the district court March 11th, 1857.

785, 319, S. D. José Maria Castañares, claimant for Arroyo de los Calsoncillos, 11 square leagues, in Santa Clara county, granted December 28th, 1843, by Manuel Micheltoarena to J. M. Castañares; claim filed March 2d, 1853, rejected by the commission April 24th, 1855, and appeal dismissed for failure of prosecution February 12th, 1857.

786, 310, N. D. Victor Prudon, claimant for Bodega, in Sonoma county, granted July 15th, 1841, by M. G. Vallejo to V. Prudon; claim filed March 2d, 1853, rejected by the commission April 24th, 1855, and by the district court March 17th, 1857.

787, W. W. Warner, claimant for part of Nueva Flandria, 3 leagues square, granted in 1845 on an order of Manuel Micheltoarena by J. A. Sutter to Juan de Swat; claim filed March 2d, 1853, and rejected by the commission March 27th, 1855.

788, 340, N. D. Justo Larios et al., claimants for Campo de los Franceses, granted in 1844, by Manuel Micheltoarena to Guillermo Gulnack; claim filed March 2d, 1853, and rejected by the commission April 24th, 1855.

789, 339, N. D. Agustin Juan, claimant for Campo de los Franceses, granted in 1844, by Manuel Micheltoarena to Guillermo Gulnack; claim filed March 2d, 1853, rejected by the commission April 24th, 1855, and dismissed by claimant March 20th, 1857.

790, 296, S. D. Widow and children of Simeon Castro, claimants for Tucho, 800 varas square, in Monterey county, granted June 12th, 1841, by Juan B. Alvarado to Simeon Castro; claim filed March 3d, 1853, confirmed by the commission March 20th, 1855, and appeal dismissed February 1st, 1858.

791, 112, N. D., 200. H. G. Langley, claimant for part of Napa, in Napa county, granted September 21st 1838, by Juan B. Alvarado to Salvador Vallejo; claim filed March 3d, 1853, confirmed by the commission April 11th, 1854, and by the district court with consent of the U. S. district attorney March 2d, 1857.

792, 266, N. D. Cyrus Alexander, claimant for part of Sotoyomi, 2 square leagues, granted September 28th, 1841, by Juan B. Alvarado to Henry D. Fitch; claim filed March 3d, 1853, rejected by the commission February 8th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856. (See No. 16.)

793, 303, N. D. Sacramento City, claimant for land; claim filed March 3d, 1853, rejected by the commission April 17th, 1855, and appeal dismissed April 21st, 1856.

794, 247, N. D. Salvador Vallejo, claimant for part of Lupyomi, 2 square leagues, granted September 5th, 1844, by Manuel Micheltoarena to S. Vallejo and Juan Antonio Vallejo; claim filed March 3d, 1853, rejected by the commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856. (See No. 507.)

795, 356, N. D. Peter Scherreback, claimant for 800 varas square, in San Francisco county, granted December 5th, 1845, by Mariano Castro to P. Scherreback; claim filed March 3d, 1853, rejected by the commission November 6th, 1855, confirmed by the district court December 5th, 1859, and decree vacated June 2d, 1860.

796, 308, S. D. Eulogio de Celis, claimant for 100 varas square, in San Diego county, granted in 1835 by the ayuntamiento of the town of San Diego to Juan Maria Osuna; claim filed March 3d, 1853, rejected by the commission February 8th, 1855, and appeal dismissed for failure of prosecution December 19th, 1856.

797, 336, N. D. William M. Fuller, claimant for part of Soulajule, one and one-sixteenth square miles, in Marin county, granted March 29th, 1844, by Manuel Micheltoarena to José Ramon Mesa; claim filed March 3d, 1853, rejected by the commission April 17th, 1855, and appeal dismissed for failure of prosecution February 23d, 1857.

798, 316, N. D. Harriet Besse, claimant for part of Lassen's Rancho, in Tehama county, granted December 26th, 1844, by Manuel Micheltoarena to Peter Lassen; claim filed March 3d, 1853, rejected by the commission April 17th, 1855, and appeal dismissed for failure of prosecution April 28th, 1856.

799, 160, N. D. Charles E. Hart, claimant for part of Los Carneros, in Solano county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 3d, 1853, confirmed by the commission August 1st, 1854, and by the district court March 2d, 1857.

800, 256, N. D. James H. Watnough, claimant for part of Petaluma grant, one square mile, in Sonoma county, granted October 22d, 1843, by Manuel Micheltoarena to M. G. Vallejo; claim filed March 3d, 1853, rejected by the commission January 30th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

801, 296, N. D. Reuben M. Hill, claimant for part of Los Carneros, 500 yards square, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 3d, 1853, rejected by the commission February 27th, 1855, and appeal dismissed for failure of prosecution April 21st 1856.

802, 282, N. D. Sarah Ann Madie, claimant for part of Los Carneros, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 3d, 1853, rejected by the commission February 27th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

803, 365, N. D. Edward Wilson, claimant .for part of Los Carneros, in Napa county, granted May 9th, 1836, by Mariano Chico to Nicolas Higuera; claim filed March 3d, 1853, confirmed by the commission June 12th, 1855, and appeal dismissed March 20th, 1857.

804, 267, N. D. John Conn, claimant for Locoyollome, 2 square leagues, in Napa county, granted in 1845, by José de los Santos Berreyesa, first alcalde of the district of Sonoma, to John Rainsford; claim filed March 2d, 1853, rejected by the commission February 8th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

805, 334, S. D. José Antonio Aguirre, claimant for one-half of Island Santa Cruz, in Santa Barbara county, granted May 22d, 1839, by Juan B. Alvarado to Andres Castillero, under an alleged sale from Castillero, (see No. 176); claim filed March 3d, 1853, rejected by the commission June 5th, 1855, and dismissed by claimant March 4th, 1858.

806, 187, N. D. José Santos Berreyesa, claimant for 200 by 300 varas, in Sonoma county, granted May 30th, 1846, by Joaquin Carrillo to J. S. Berreyesa; claim filed March 3d, 1853, rejected

by the commission October 17th, 1854, and appeal dismissed for failure of prosecution April 21st, 1856.

807,197, N. D. Milton Little claimant for 5 square leagues, in Monterey county, granted in 1844 or 1845, by Manuel Micheltoarena to Josefa Martinez; claim filed March 3d, 1853, rejected by the commission April 17th, 1855, and by the district court June 1st, 1858. Rejected again on rehearing, July 6th, 1858.

808, 180, S. D. John Foster et al., claimants for mission of San Juan Capistrano, in Los Angeles county, granted December 6th, 1845, by Pio Pico to J. Foster and J. McKinley; claim filed March 3d, 1853, rejected by the commission August 1st 1854, and appeal dismissed by claimant February 8th, 1858.

809, 158, N. D. R. S. Kilburn, claimant for 1,500 acres, granted to Manuel Baca; claim filed March 3d, 1853, rejected by the commission August 1st, 1854, and appeal dismissed for failure of prosecution April 21st, 1856.

810, 108, N. D. N. Coombs claimant for part of Entre Napa, in Napa county, granted May 9th 1836, by Mariano Chico to Nicolas Higuera; claim filed March 3d, 1853, confirmed by the commission April 11th, 1954, and by the district court March 30th, 1861.

811, 251, N. D. W. H. Davis et al., claimants for 200 varas square, in San Francisco county, granted in 1835, by José Castro to José Joaquin Estudillo; claim filed March 3d, 1853, rejected by the commission February 6th, 1855, and appeal dismissed for failure of prosecution April 21st, 1856.

812, James A. Shorb et al., claimants for Arroyo de San Antonio, 3 square leagues, granted October 8th, 1844, by Manuel Micheltoarena to Juan Miranda; claim filed March 3d, 1853, and discontinued February 6th, 1855.

813, 428, N. D. Juan M. Luco, claimant for Ulpinons, granted December 4th, 1845, by Pio Pico to José de la Rosa; claim filed September 13th, 1854, by virtue of an act of congress of April 17th, 1854, the two years within which claims might be presented having elapsed, rejected by the commission September 25th, 1855, by the district court June 26th, 1858, and judgment affirmed by the U. S. supreme court, 23 Howard [64 U.S.] 615.

By the law of congress of March 3d, 1851, the commission was to act during three years from the passage of the law, and the claims not presented within two years from the date of the act, were to be considered part of the public domain.

By the law of January 18th, 1854, the time within which the commission was to act, was extended one year more from the third of March, 1854, and by the law of the tenth of January, 1855, the time was again extended one year more from the third of March 1855. Commission adjourned, March 1st, 1856.

#### JIMENO INDEX

As to the importance of the registry of a grant in the Jimeno Index, the United States court in the case of the United States v. West's Heirs, in 22 Howard [63 U. S.] 315, say:

"We do not regard the catalogue of grants as authoritative proof of grants enumerated in it, or as a conclusive exclusion of grants not so registered by Jimeno, which may be alleged to have been made whilst California was a part of the Mexican republic, though they may bear date within the time to which that index relates, but in this case it may be referred to as an auxiliary memorandum made by Jimeno himself of his action upon the petition of West."

No grant presented to the commission seems to correspond to the following numbers:

In the Jimeno Index—Nos. 12, 22, 28, 42, 44, 47, 48, 52, 53, 56, 57, 63, 65, 68, 73, 76, 78, 89, 93, 96, 97, 98, 99, 101, 104, 106, 107, 112, 115, 116, 117, 119, 120, 123, 132, 134, 137, 138, 146, 158, 161, 165, 170, 173, 178, 183, 183, 199, 206, 213, 219, 232, 242, 258, 263, 269, 287, 323, 368, 373, 374, 378, 379, 383, 386, 388, 392, 399, 401, 427, 428 and 429.

Grants refused—Nos. 2, 3, 8, 32, 33, 38, 40, 41, 43, 59, 62, 66, 67, 74, 83, 84, 85, 86, 103.

In the Hartnell Index—Nos. 435, 440, 445, 447, 448, 450, 460, 466, 469, 471, 477, 480, 486, 487, 505, 509, 543, 561, 567, 568, 573, 574 and 576.

Grants appearing to be in Lower California—Nos. 482, 489, 490, 492, 497, 498, 500, 502, 555, 556, 557, 564.

The above grants, in Upper California, are supposed not to have been presented to the commission, but by a more diligent search some of the above numbers might be found to correspond to the grants presented.

## YesWeScan: The FEDERAL CASES

## GOVERNORS OF CALIFORNIA.

{Reprinted from 1 Hoff. Land Cas. 453.}

GASPAR DB PORTALA, PROM 1767 TO 1771.

It was under Portalá that the Reverend Father Junipero Serra founded the first missions of Upper California.

Father José Miguel Serra was born on the twenty-fourth of November, 1713, on the island of Majorca. At sixteen he entered the Convent of Jesus, in Palma, the capital of the island. On the fifteenth of September, 1731, he was admitted to holy orders under the name of Father Junipero. On the thirteenth of April, 1749, he sailed from the island with his bosom friend and biographer, Father Francisco Palou, for Mexico. They left Cadiz on the twenty-eighth of August, reached Vera Cruz on the sixth of December, and traveling on foot, Father Junipero arrived at Mexico on the first of January, 1750. From thence he was sent on the Sierra Gorda, among the Pima Indians, where he remained nine years; from thence he traveled over Mexico, preaching the gospel, until the middle of 1767.

The decree of Carlos III, expelling the Jesuits from his dominions, was put in force on the twenty-fifth of June, 1767. As to Lower California, the Viceroy, Marquis de Croix, placed its execution in the hands of the Catalonian captain of dragoons, Gaspar de Portalá, appointing him at the same time governor of the Peninsula, and placing under his command fifty well armed men to expel the Jesuits from the missions by force, if necessary.

Portalá embarked in Matchantel with his forces, and fourteen Franciscan monks to succeed the Jesuits. Being prevented by a storm from reaching Loreto, in Lower California, as ordered by the Viceroy, he landed at San Bernabé towards the latter part of 1767. From San Bernabé, Portalá went to Loreto with twenty-five soldiers and the captain of the Peninsula. In his conversation with the captain, he discovered that no force would be required to expel the sixteen Jesuits. When he reached Loreto, he sent for Father Bonito Ducrue, missionary of Guadalupe and superior of the missions. He communicated his decree to Father Ducrue and two other Jesuits. He found that the captain was right as the Jesuits respectfully submitted to the order, and left California on the third of February, 1768, on the Concepcion, bound for San Blas.

After the expulsion of the Jesuits, the viceroy, with the concurrence of the inspector general of the kingdom, Don Jose de Galvez, decided to place the missions of Lower California under the care of the college of San Fernando, in Mexico. For that purpose they required twelve priests of the college, and Father Junipero was appointed president of these missionaries. On the fourteenth of July, 1767, they left Mexico for San Blas. On the twenty-first of August they reached Tepic, where four other priests were taken. Whilst they were awaiting there the construction of the vessels which were to carry them,



the Concepcion arrived at San Blas with the Jesuits, and they sailed on that vessel on the twelfth of March, 1768. They arrived at Loreto on the first of April; the next day each one went to the mission assigned him, Father Junipero taking care of the mission of Loreto.

Galvez having been invested with powers to visit the missions of Lower California, and having a royal order to send an expedition by sea to settle the port of Monterey, in Upper California, or at least that of San Diego, he sailed from San Blas on the twenty-fourth of May, 1768, and reached the Peninsula on the sixth of June.

In order to better carry out the intentions of his majesty, Galvez made up his mind that, besides the expedition by sea, he would send another by land. He communicated this idea to Father Junipero, who agreed with him. They decided that three vessels should sail to meet the expedition by land at San Diego; that three missionaries should leave on the first two, and another on the vessel to start subsequently. They agreed that three missions should be founded: one at San Diego, another at Monterey, and a third at San Buenaventura, midway between the two first.

On the ninth of January, 1769, the San Carlos left La Paz with the members of the expedition, among whom was Pedro Fajes, who became governor of Upper California, in 1782, and had under his command twenty-five Catalonian volunteers. The San Antonio left San Lucas on the eleventh, and the Señor San José left Loreto on the sixteenth of June of the same year.

Galvez divided the expedition by land in two parts. Portalá was appointed commander-in-chief of the expedition, and Captain Fernando Rivera y Moncada, his second in command, was to take charge of the first division.

The first division arrived "at San Diego on the fourteenth of May, 1769, after fifty-two days travel from Loreto. The second division, under the charge of Portalá, with whom was Father Junipero, arrived on the first of July, after forty-six days travel. They found in port the San Antonio, which had arrived on the eleventh of April, and the San Carlos, which reached San Diego twenty days after. The Señor San José not having been heard from, it was presumed that it was wrecked.

On account of the loss of life among the crews of the vessels, it was agreed that the expedition by sea should join the one by land, and the San Antonio was ordered to San Blas for additional crew and more supplies for the two vessels. The San Carlos remained at anchor to await the arrival of the San Antonio, when both were to sail for Monterey.

On the sixteenth of July, 1769, Father Junipero founded the Mission of San Diego, at the port of that name, which in 1603 had been discovered by Admiral Sebastian Vizcaino, who in the same year discovered the port of Monterey.

Portalá, Fajes Moncada, and seventy-three others left San Diego by land on the fourteenth of July, 1769, to seek out the port of Monterey; they, however, returned on the twenty-fourth of

January, 1770, after having gone as far north as San Francisco without finding the above named port.

The San Antonio left San Blas direct for Monterey. Fortunately, the loss of her anchor in the neighborhood of Santa Barbara compelled her to put back for San Diego to get an anchor from the San Carlos. This vessel being loaded with supplies and having an additional crew, it was resolved that a new expedition, by land and sea, should start for Monterey. Father Junipero sailed on the San Antonio on the sixteenth of April, 1770, and Portalá started by land the next day. The San Antonio reached Monterey on the thirty-first of May, 1770. The expedition by land had already arrived there on the twenty-fourth. On the third of June, the ceremony of taking possession of the port was performed, and on that day the Mission of San Carlos was founded. The dates of the foundation of the other missions are to be found at No. 609 in the annexed table of land claims presented to the land commission.

Whilst gathering the foregoing facts from the life of Father Junipero by Father Francisco Palou, where they are related with such pious simplicity, we involuntarily feel a desire to pay a just tribute to those holy men whose sole object was to Christianize the Indians of the Californias. It was neither gold nor honors which drew them to encounter the dangers and hardships we find described in those interesting pages, and which breathe the true fervor of the servants of the Lord; but they were true apostles, devoting their evangelical lives in teaching the simple doctrines of their faith, and the trades and occupations of civilized communities.

Father Palou tells us that on the fifteenth of August, 1769, at San Diego, one month after the founding of the mission, Father Junipero and his party were attacked by a large number of Indians, and they were driven away only after the loss of a boy. A few days after the attack, the Indians appearing to be more friendly, Father Junipero attempted to baptize a child for the first time. Whilst completing the ceremony by pouring water on the child out of a shell, the Indians snatched away the child, leaving the confused father with the shell in his hands. It required all his prudence to prevent the soldiers from avenging the insult. The grief experienced by the father was so great that he could not get over it for several days, and he attributed his ill success to his own sins. Many years after, whilst stating this circumstance, his eyes would be filled with tears, but as he could then count 1046 christianized Indians in that mission, he would exclaim: "But let us thank God, that without the least opposition, we have accomplished so much."

On the fourth of November, 1775, the Indians again attacked that mission, reduced it to ashes, cruelly massacred Father Luis Jaime, and killed several other persons. In August, 1781, the Yumas set fire to the two missions on the Colorado river, killed four priests, eight soldiers and Captain Fernando Rivera y Moncada.

These were some of the dangers encountered by these devout men; but nothing can better show the meekness and humility of Father Junipero than the following anecdote told us by Father Palou. After landing, in December, 1749, in Vera Cruz, he traveled on foot to Mexico; the journey caused his feet to swell considerably. One night, in his sleep, he scratched one of them to such an extent, that when he awoke he had made such a severe wound that he never got over it through life. Immediately preceding Galvez's arrival, and to meet him, he had walked nine hundred miles, and as in all his travels he never wore either socks, boots or shoes but simply sandals; one evening when he arrived at San Juan de Dios, in Lower California, on his way to San Diego, his wound became such that he could not go any further. Portalá, seeing his condition, ordered his men to prepare a litter to carry him. Father Junipero was so deeply affected at the idea of giving so much trouble to the men, that placing his faith in God, he called to him Juan Antonio Coronel, the arriero. "My son," said he, "could you not prepare something to relieve my foot and leg?" "Why, father," answered Coronel, "what can I know; am I a doctor? I am only an arriero, and all that I have cured are the wounds of beasts." "Well, my son," said the holy man, "only consider that I am a beast, and that this wound is nothing but a beast's wound, which has caused the swelling of the leg and those pains which even keep me from sleeping, and prepare me the same thing you would apply to a beast." The arriero smiling, with all the assistants, said, "I will do it, father, to please you." He took some tallow and gathered a few herbs; he crushed and mixed them well with two stones, and after stewing the mixture he applied it. With the help of God, as Father Junipero writes to Father Palou when he arrived at San Diego, he slept all that night till morning. He was so relieved that he said his morning prayers as customary, and celebrated mass as if nothing had happened, and the expedition kept on without losing an instant.

In July, 1784, Father Palou, who was then in San Francisco, having received a letter from Father Junipero requesting his presence in Monterey, he reached that place on the eighteenth of August, and found Father Junipero afflicted with the disease which was to terminate his Christian career. On the twenty-eighth, a little before ten in the evening, Father Junipero, in his room, was still able to walk to the boards covered with a blanket, on which he rested; and after reclining on them with the holy cross near by, so softly did his soul depart that his faithful companion thought it was nothing but a quiet slumber. Father Junipero was in his seventy-first year when he died. In the fifteen years of his life in Upper California, five Spanish and nine christianized Indian settlements had been made, and 5,800 Indians had been baptized.

The following particulars are drawn from the Spanish archives of the state of California: On the twelfth of November, 1770, the Viceroy Marquis de Croix writes to Pedro Fajes, commander of the presidio at Monterey, directing him to make a settlement at the port of San Francisco.

FELIPE BARBI, FROM 1771 TO 1774.

The first mention we find of Barri as governor is in a letter he addresses in that capacity from Loreto to Pedro Fajes, commander of the presidio of Monterey, dated the second of June, 1771. On the seventh of September, 1773, Pedro Fajes was succeeded in the command of the presidio of San Diego and Monterey by Fernando Rivera y Moncada, under an order of the Viceroy Bucarely.

FELIPE DE NEVE, FROM 1774 TO 1782.

On the twenty-eighth of December, 1774, Governor Barri is succeeded by F. de Neve. On the twentieth of July, 1776, Governor Neve is ordered by the Viceroy to remove from Loreto to the presidio of Monterey; he arrived there on the third of February, 1777. Moncada is then transferred as lieutenant of Neve at Loreto, or at whatever place the presidial might be located.

NOTES

CONCERNING

THE UNITED STATES CIRCUIT AND DISTRICT  
COURT REPORTS.  
ABBOTT'S ADMIRALTY REPORTS.

[Abb. Adm.]

Reports of cases in admiralty in the district court, S. D. N. Y., before Judge Betts, from 1847 to 1850. By Abbott Bros., counselors at law. Boston: Little, Brown & Co., 1857.

Vol. 1 (so entitled, though no other volume was ever published) contains the following preface:

The present volume contains a full selection of the decisions in admiralty causes rendered in the United States district court for the Southern district of New York, by the Hon. Samuel R. Betts, from the early part of the year 1847 down to the close of 1850. It may be regarded as a continuation of the series of Admiralty Reports commenced by Blatchford & Howland, and continued by Olcott. The present editors have spared no pains in the "effort to perform the duty which has devolved upon them; and they have enjoyed every facility which could be desired, both from the eminent judge whose decisions are reported, and from those gentlemen in whose immediate charge are the books and papers of the district court. In the hope that it may be of service, not only to their professional brethren practicing in this district, but also to those who may labor in other fields of professional life, the volume is now submitted to the bar.

ABBOTT'S UNITED STATES REPORTS.

[Abb. U. S.]

Reports of decisions rendered in the circuit and district courts from 1865 to 1871. Selected from all the circuits and districts by Benjamin Vaughan Abbott. Two volumes. New York: Diossy & Co. Vol. 1, 1870; vol. 2, 1871.

The following preface is from vol. 1:

To present the adjudications of the United States circuit and district courts, in a comprehensive and satisfactory manner, is the general purpose of this series. The progress of our national jurisprudence is embodied in the laws passed by congress, the decisions of the supreme court, and those decisions of circuit or district courts which are not reviewed on writ or error or appeal; in addition to which should be mentioned the determinations of the court limited, department. Systematic and satisfactory arrangement now exist (relying partly upon government aid) for the prompt publication of the acts of congress, and for regular reports of the adjudications of the supreme court and of the court of claims. If the system of reporting the important decisions of the circuit and district courts can

be made comprehensive and reliable, there will then be in operation a complete scheme, presenting the progress of the entire jurisprudence developed under the operation of the national government. To some extent the decisions of the circuit and district courts are now reported. There is, for the first circuit a special series of circuit court reports, almost unbroken; and for the second, another, nearly, though not quite, as continuous. In some other circuits there are valuable reports covering limited periods. But there remain some circuits which are almost wholly unreported, and, as respects the district courts, there has not been anything like a systematic method of selecting and reporting what is valuable in their decisions. So far as it is practicable for reports within a particular circuit to be maintained, the cases which they may include ought not to be duplicated in these volumes; but the endeavor of this series will be to collect from the circuit and district courts at large, wherever local reports are not supported, those decisions which have general value and importance, and to report them in the best and most satisfactory manner, to the end that the current volumes of the Supreme Court Reports and of this series may give, from time to time, a good view of the course of decision in the national courts. The selection of cases to be reported in these volumes, must be chiefly controlled by the consideration of their value and utility to the practicing lawyer. There is a tendency towards the unnecessary multiplication of reports, to which, it is hoped, this enterprise will not be found to yield. The volumes will be devoted to decisions of general application and value, exhibiting the advance and progress of the national jurisprudence, the construction and application of the United States laws, the procedure of the United States tribunals, and similar subjects; and, as far as practicable, cases of only local application, decisions which only resolve controverted questions of fact peculiar to the particular controversy, or repeat and apply familiar principles of law, together with decisions which there is reason to anticipate will be carried before the supreme court for review, or will be seasonably reported in standard reports to which the bar would naturally turn for them, will be excluded.

#### BALDWIN'S REPORTS.

[Baldw.]

Reports of cases determined in the circuit court Third circuit, from 1827 to 1833, by Hon. Henry Baldwin, circuit justice, one of

the judges of the court. One volume. Philadelphia: James Kay, Jr., & Bro., 1837.

The following dedication to Judge Hopkinson will be found on page iii:

I should do great injustice to my feelings, in submitting this volume to the profession, without testifying to them my sense of obligation to you, who have contributed so much to make its contents worthy of their approbation, not only by the opinions delivered by yourself, but in others, in which it has been left to me to give the result of our mutual labor and concurring judgment. When we became associated in our judicial duties, we had an arduous task before us, the high character of the bar of the circuit court, and the nature of the causes depending therein, were in themselves just cause for apprehension; but there was still greater reason to be appalled, when we consider the reputation which that court had acquired and sustained for thirty years, under the administration of that eminent and most beloved judge who preceded me. The highest call was made on you, to bring into active requisition all the powers of your acute, discriminating mind, your cogent reasoning and sound judgment, as well as the large fund of legal information, acquired during a long and active course of professional experience, in the development and application of the great principle of federal and state jurisprudence. If a more imperious call could be made on any one, it was on me to exert every faculty in a way more appropriate to your junior in years and practice; by a patient and laborious examination of the adjudged cases, and the analogies of the law, to so apply the test of precedents to principles, that while we followed the former, the latter should not be violated. If this volume does not suffice to show that we have obeyed these calls by the execution of every talent at our command, and the just expectations of the public have been disappointed, we must submit to their opinion; having done our best, we are spared the pain of our self-reproach. But if we have in some degree adjudicated the cases before us as to have given reasonable satisfaction, or measurably preserved the character of the court, it has been by a singleness of object, its steady pursuit, and a happy union of opinion in our several judgment on the points adjudged, as well as in the illustrations and analogies on which our decisions were founded. It has been to me a subject of pride and pleasure, that the cases in which we have been unable to agree in opinion, are fewer in number than the years of our judicial association; that when they have occurred it has been a subject of mutual regret, and each has been desirous of yielding to the other. When we were colleagues in another department of the government, we came in collision with less regret, owing perhaps to one stimulus, which neither of us now feel, or suffer to have any influence on our minds. The pride of victory is a strong incentive in political debate, in which none can engage without feeling its impulse; but however it may have operated on us during a discussion, it ended with it, and we always parted with the same mutual sentiment as we have since done after a judicial conference, when each felt compelled to adhere to his opinion, more diffidence of

himself, and respect for the other. While these are the relations between us, others will appreciate the reasons why I dedicate this book to you.

#### BANNING AND ARDEN'S PATENT CASES.

{Ban. & A.}

Reports of patent causes decided in the circuit courts from Jan. 1, 1874, to 1880, and reprinting many cases from Blatchford's Reports. By Hubert A. Banning and Henry Arden, counselors at law. Five volumes. New York: L. K. Strouse & Co. Vol. 1; 1881; vols. 2, 3, and 4, 1882; vol. 5, 1883.

The following preface is from vol. 1:

These Reports will contain the decisions of the circuit courts of the United States in patent cases, from January 1, 1874, the date to which such decisions are reported in Fisher's Patent Cases. When the cases are reported to date, volumes, will thereafter be published, whenever a sufficient number of opinions can be collected and prepared. After careful consideration, and upon the advice of some of the judges, we have omitted, except in a few cases, the insertion of preliminary statements and diagrams. The opinions, in almost all cases, fully explain the nature of the questions and the mechanical features of the inventions involved in the controversies. We are under great obligations to the judges for their assistance and co-operation, without which the undertaking would have been impracticable. We especially acknowledge our indebtedness to Judge Blatchford, who has permitted us to insert those cases, decided in the Second circuit, which appear in Blatchford's Circuit Court Reports, as therein reported by him. Judge Sawyer has accorded us like permission to use the cases decided in the Ninth circuit, which are reported in Sawyer's Reports, and for which we are indebted to him.

#### BEE'S ADMIRALTY REPORTS.

{Bee.}

Reports of cases in the district court, D. S. C., from 1792 to 1809, by Hon. Thomas Bee, judge of the court. The appendix contains Judge Hopkinson's decisions in the admiralty court of Pennsylvania from 1779 to 1788, and a case from the district court, D. Mass., decided in 1809. The book also contains opinions of Justices Marshall and Johnson in two cases on appeal from Judge Bee's decision, and Marshall's speech in congress in the case of Nash alias Robbins, who was extradited by England for murder. One volume. Philadelphia: William P. Farrand & Co., 1810.

The following preface will be found on page iii:

These decisions are published at the suggestion of many members of the Charleston bar, and in the hope that they may afford some aid to the profession in general, and some direction to merchants, captains of ships, and mariners, whose interests constitute the chief subject of them. It is presumed they have been in most instances, satisfactory, for in every case of appeal, except one, they have been confirmed. It was the intention and



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wish of the judge to revise them before publication; but he was prevented from doing so by a very long and serious illness. The candour of the profession will make due allowance for this very material circumstance. Judge Davis's decree in the district court of Massachusetts is here republished, not only on account of its intrinsic excellence, but because it gives weight to a similar decision by Judge Bee; the circuit court of Pennsylvania having given a different determination, it is desirable that the question should be finally settled by the supreme judicature of the United States.

## BENEDICT'S DISTRICT COURT REPORTS.

[Ben.]

Reports of cases in district courts of the Second circuit from 1865 to 1879. Ten volumes. New York: Baker, Voorhis & Co. The volumes appeared at intervals from 1869 until 1882. Vols. 1-6 are by Robert D. Benedict, Esq. Vols. 7-10, by Robert D. Benedict, Esq., and B. Lincoln Benedict, Esq.

The following note is from vol. 10, p. iii:

The cases reported in this volume are selected from the many in which opinions were handed down in the district courts of the United States within the Second circuit, between July, 1878, and January, 1880, when the publication of the Federal Reporter began. The field of these Reports is so nearly covered by the Reporter that it seems at present inadvisable to continue them. The author begs to return thanks to the members of the profession, generally, and to the admiralty bar in particular, for the favor shown to the work in its previous volumes, and to announce that the present and 10th volume closes the series of Benedict's Reports.

## BISSELL'S REPORTS.

[Biss.]

Cases in the circuit and district courts for the Seventh circuit from 1851 to 1883, by Josiah H. Bissell, of the Chicago bar. Eleven volumes. Chicago: Callaghan & Co. Vols. 1 and 2 appeared in 1873, and the others at intervals until 1883, when vol. 11 was published.

The following preface is from vol. 1:

This volume, the work of the early and late hours of a practicing lawyer, is the first of a series which is designed to include the leading decisions of the United States circuit and district courts for the Seventh judicial circuit since the time of McLean's Reports, and to form with them a continuous and harmonious series. The opinions after passing through the reporter's hands have been revised by the respective judges. Not originally designed for publication, and in many cases laid aside as soon as the interest of a *nisi prius* case had passed away, the difficulties of properly preparing them and the necessary statements of facts have been greater than any one could have expected,—far greater than the reporter imagined when he undertook this task. The reporters of the state courts are furnished with printed records, statements of facts and briefs, and opinions prepared with reference to publication,—an advantage which no one can appreciate until he has collated loose manuscript, slips of newspapers, old law periodicals, resurrected briefs and memoranda, and dusty court files. Where facts and figures have slipped from the memory of court, counsel and litigants, it is extremely difficult to prepare and present the principles in a manner satisfactory to the profession or author; nor is it possible to do full justice to the judges whose opinions are thus presented to the public. That since the death of

the late Judge McLean, whose valuable series of reports bears his name, there should have been no regular reports of the decisions in this circuit, comprising three large and rapidly growing states, before whose tribunals are continually arising cases involving important questions and large commercial and landed interests, has long been a surprise and regret to the members of the profession. Encouraged by many of his professional brethren to collect and arrange these decisions, the reporter only hopes, that if some of the cases may appear incomplete, they will remember the circumstances under which this series has been undertaken and prepared. A number of cases here reported have been carried to the supreme court, as will appear by the notes added thereto; but the opinions below are published here, either as containing a fuller discussion of the principles involved, or because the case was decided in the upper court on some point of practice, or question not considered below. In some cases where the decision below is affirmed without discussion of principles or authorities, the opinion of the circuit or district judge acquires, so to speak, the authority of a supreme court decision. By no means all the opinions which i have come to the hands of the reporter are published in this series. During the period covered by the present volume, many questions of great interest and importance at the time have become dead issues, and the value of many decisions as contributions to the permanent body of judicial decision has passed away. Many able, elaborate, and well reasoned decisions on questions connected with the fugitive slave law, special state statutes, and the varied and exciting questions arising out of the late civil war have been laid aside, even though some of them were both interesting in themselves and by reason of the circumstances under which they were delivered, and formed, perhaps, a legitimate portion of the judicial history of the Northwest. The executors of the late lamented Judge McLean, associate justice of the supreme court of the United States, have kindly furnished to the reporter all his unpublished manuscript, and many of his opinions will be found in this volume. The opinions of the late Judge McDonald, of Indiana, have also been delivered to the reporter to be incorporated into this series, where they naturally belong. They will form a large part of the third volume. After the materials had been collected, and the work of revising and arranging commenced, the whole narrowly escaped destruction in the great Chicago fire, and the entire destruction of all the law libraries, both public and private, necessitated a long delay,—it being indispensable that the numerous authorities cited by court and counsel be verified and compared. The second volume is now in the printer's hands, and the third and fourth will follow as rapidly as is consistent with accuracy. To the respective judges, the clerks of the several courts, to the Honorable S. S. Fisher, late United States patent commissioner, and to many lawyers in this and other cities, the reporter is under obligations for opinions and information. It is hoped that the notes added to many of the cases will be found convenient to the practicing lawyer, and if the series shall meet the approval of his professional brethren, the reporter will feel that

his labors of love have been amply rewarded, and that he has discharged some portion of that duty which, according to Lord Bacon, every man owes to his profession.

The following preface is from vol. 4:

Since the commencement of the publication of this series of Reports, a large number of opinions by the different judges within the circuit have come to the reporter's hands after the publication of the volumes to which they respectively belonged. These opinions are of such interest and value that the series would be essentially incomplete were they not to appear, even though their publication necessarily involves a break in the continuity of the series. The reporter has, therefore, after a careful examination of these opinions, selected such as he deemed most valuable, and now presents them

in their chronological order, with such notes and references to subsequent decisions as will, he trusts, make them more practically useful to the profession, and present, even in the older cases, the present state of the law applicable to the questions involved. The opinions of the late Hon. David McDonald of Indiana, were furnished by his executors, and revised by him for publication shortly before his decease. Those of the other judges have, in every case, been revised by the respective judges. For the notes, the reporter alone is responsible.

BLATCHFORD'S CIRCUIT COURT REPORTS.

[Blatchf.]

Reports of cases in the circuit courts for the Second circuit from 1845 to 1887, by Samuel Blatchford, Esq. Twenty-four volumes. Vol. 1, Auburn: Derby & Miller, 1852. Vol. 2, New York: John S. Voorhies, 1859. All the other volumes are published by Baker, Voorhies & Co., New York, at intervals from 1868 until 1888. Vols. 1-3 were published before the author's elevation to the bench, vols. 4-13 while United States district judge for the Southern district of New York, vols. 14-18 while United States circuit judge for the Second circuit, and vols. 19-24 while associate justice of the United States supreme court assigned to the Second circuit.

The following preface is from vol. 1:

Since the accession of Mr. Justice Nelson to the bench of the supreme court of the United States in March, 1845, a desire has been very generally expressed by the profession, that his decisions as a judge of the circuit courts within the Second circuit, embracing the two districts of New York and those of Vermont and Connecticut, should be collected in a permanent form. Those decisions comprise cases both at law and in equity, and questions of constitutional, commercial, revenue, and admiralty law, of patents, of copyright, and other important subjects. The high reputation of Judge Nelson, and the fame earned by him during a judicial career, now of twenty-nine years duration, for fourteen of which he occupied a seat upon the bench of the supreme court of New York, and for nine of which he was chief justice of that court, and the fact that in only two reported cases, that of *Lawrence v. Allen*, 7 How. [48 U. S.] 785, and that of *Williamson v. Berry*, 8 How. [49 U. S.] 495, have his decisions in the court below failed to secure the approbation of a majority of the supreme court, have been to the reporter a sure guarantee that it required nothing but the presentation in a proper form of the cases contained in this volume to ensure for them the approbation of the profession. In this view, the preparation of the volume was undertaken in the summer of 1850, but its completion has been delayed till now by other engagements. The reporter has in his possession sufficient materials to enable him, with the addition of decisions that will probably be made during the ensuing year, to publish another volume at the expiration of about that time. Whether he will do so or not, will of course depend upon the wishes of his brethren of the pro-

fession, whose indulgence is asked for this his first effort as a reporter. It is proper to say that the opinions in this volume were nearly all of them written without any view to their publication, and that the entire manuscript has had the benefit of the revision and approbation of Judge Nelson. The title of Circuit Court Reports is adopted for these Reports, to prevent their being confounded in citation with Blackford's Indiana Reports.

#### BLATCHFORD'S PRIZE CASES.

[Blatchf. Prize Cas.]

Reports of cases in prize in the circuit and district courts for the Southern district of New York from 1861 to 1865. By Samuel Blatchford. One volume. New York: Baker, Voorhies & Co., 1866.

This volume contains the decisions of Justice Nelson and Judge Betts in prize cases. The following is the preface:

The compilation of the cases contained in this volume was undertaken at the request of the department of state of the United States. The cases reported are all the prize suits decided in the circuit and district courts of the United States for the Southern district of New York during the Rebellion, with, perhaps, the exception of a very few cases in which decrees were entered without any opinion or memorandum of decision having being filed by the court. For the information of those who are not acquainted with the constitution of the courts of the United States, it may be well to say that the district court is held by the district judge, and that the circuit court is, as a general rule, held by the justice of the supreme court of the United States, who is assigned to the circuit embracing the court, and the district judge of the district, sitting jointly, or by either of them sitting alone. But it is provided by law that, in all cases which are removed by appeal or writ of error from a district to a circuit court, judgment shall be rendered in conformity to the opinion of the judge of the supreme court presiding in the circuit court. Practically, therefore, the justice of the supreme court always sits alone in hearing cases removed by appeal or writ of error from the district to the circuit court. Down to the 3d of March, 1863, appeals from decrees made by the district court in prize cases were taken to the circuit court in like manner as appeals to the circuit court from decrees made by the district court in other cases. But by the seventh section of the act of congress approved March 3, 1863, entitled "An act further to regulate proceedings in prize cases, and to amend various acts of congress in relation thereto" (12 Stat. 760), it was provided that appeals from the district courts of the United States in prize cases should be directly to the supreme court. This provision was reenacted by the thirteenth section of the act of congress approved June 30, 1864, entitled "An act to regulate prize proceedings and the distribution of prize money, and for other purposes" (13 Stat. 310), and is still in force. Therefore after the 3d of March, 1863, no appeals in prize cases were taken from the district to the circuit court.

#### BLATCHFORD AND HOWLAND'S REPORTS.

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[Blatchf. & H.]

Reports of admiralty cases decided by Judge Betts in the district court, S. D. N. Y., from 1827 to 1837. By Samuel Blatchford and Francis Howland, counselors at law. One volume. A second volume was in contemplation, but was never published. New York: Jacob R. Halstead, 1855.

The following preface will be found on page iii:

It has long been a source of regret among the members of the legal profession, that there were no reports of cases, particularly of admiralty cases, adjudged in the district court of the United States for the Southern district of New York, other than such as were to be found scattered here and there in legal periodicals. The variety and importance of the cases decided in that court, within whose jurisdiction is found the chief commercial city of the Union, and the long experience and high juridical attainments of the distinguished judge who, for nearly thirty years, has presided there, have seemed to warrant the preparation of formal reports of some of the cases determined in that court. The present volume embraces a selection of cases in admiralty, fifty-three in number, running through a period of nearly ten years. It is intended to publish other volumes containing cases down to the present time. There is an apparent anachronism in citing the laws of the United States from Little & Brown's edition of the United States Statutes at Large. But this has been done, because that edition is a standard publication recognised by act of congress, and has superseded, in most libraries, all earlier editions. In some instances, too, the rules of court referred to are cited by their numbers in the rules now in force, as those in force at the dates of the decisions are entirely out of print, and the same rules differ in their numbers in the two sets of rules.

#### BOND'S REPORTS.

[Bond.]

Reports of cases in the circuit and district courts for the Southern district of Ohio from 1856 to 1871. By Lewis H. Bond, counselor at law. Two volumes. Cincinnati: Robert Clark & Co., 1872.

The following preface is from vol. 1:

The liberal encouragement proffered by a number of his professional brethren, in advance of the publication of these volumes, and the assurance of the co-operation of the learned judge whose decisions are herein presented, induced the reporter cheerfully to enter upon the labor of preparing them for the press. The six volumes of Judge McLean's Reports include the period dating from his appointment to the bench of the supreme court in 1829, to the year 1855. Since the last-named year, with the exception of decisions occasionally appearing in law periodicals and newspapers, there have been no reports of cases in the courts for the Southern district of Ohio. It occurred to the reporter that it could not be otherwise than acceptable to the profession to present, in an enduring form, a portion of the numerous cases before Judge Leavitt from 1855 to the spring of 1871, when he retired from the bench, after his long judicial service. And in this view, the reporter is gratified in knowing he had the cordial concurrence of many prominent members of the bar with whom he conferred. After the division of the state of Ohio, in 1855, into two judicial districts, and the establishment of the courts for the Southern district at



Cincinnati, there was a rapid increase of business in both tribunals. For a few years prior to the death of Judge McLean, in the spring of 1861, his duties in the supreme court, and his failing health, prevented his regular attendance at the terms of the circuit court. After the appointment of Justice Swayne to the supreme court, in 1862, his necessary attendance at its protracted terms, and his duties in other districts of his extended circuit, rendered it impossible for him to give any considerable portion of his time to the court at Cincinnati. As a result of these causes, the labor and responsibility of presiding in the circuit court were imposed by law on the district judge. In addition, to his labors there, it was his duty to hear and decide cases in the district court, and after the adoption of the internal revenue system of the United States they were exceedingly numerous, and frequently involved new and difficult questions. The enactment of the bankrupt act of 1867 greatly increased the previous heavy pressure upon the district judge. This brief reference is made, preliminary to the statement that it was a physical impossibility for the court to prepare extended written opinions in all the cases before it, which are reported in these volumes. It was deemed expedient that these Reports should not exceed two volumes. The cases reported comprise but a small portion of the whole number decided by Judge Leavitt. The reporter has exercised his best judgment in selecting the cases for publication. His aim has been to include only such as might be of some interest to the profession. He has purposely omitted all the cases arising under the fugitive slave act. The abolishment of slavery, and the certainty that it could never again have an existence in this country, rendered the report of such cases altogether superfluous. And for a reason kindred to this, the numerous exciting cases growing out of and connected with the late civil war, with one or two exceptions, do not appear in these volumes. That was an abnormal condition of the country, never, as we may hope, to return again. Some of these cases created at the time a highly excited state of public feeling; but as the exigencies which gave rise to them have passed away, it is deemed expedient not to report them.

With the consent and approval of the Honorable S. S. Fisher, the learned and laborious reporter of four valuable volumes of Patent Cases, the reporter of the present volumes has reproduced the decisions of Judge Leavitt, as reported by Mr. Fisher. If any apology for this were needed, it will be found in the fact that the edition published by him was very limited, and that the work is in the possession of only a small number of the profession.

#### BROCKENBROUGH'S REPORTS.

{Brock.}

Sometimes cited as MARSHALL'S DECISIONS.

Reports of cases decided by Chief Justice Marshall in the circuit courts for the Fourth circuit from 1802 to 1833. By John W. Brockenbrough, counselor at law. Two volumes. Philadelphia: James Kay, Jr., & Bro.; Pittsburg: John I. Kay & Co., 1837.

The following preface is from vol. 1:

In presenting the following volumes to the members of the bench and bar of the United States, the editor deems it but an act of simple justice to himself, to state that the task of editing them, in a suitable manner, was beset with many and unusual difficulties: so formidable, indeed, were these difficulties deemed by some, whose opinions had every claim to a respectful consideration, that it was confidently predicted that the attempt would finally be abandoned in despair. Where the reporter has the advantage of hearing the arguments of counsel in a cause, it is, comparatively, an easy task to present a report of it exact full, and, in all respects, satisfactory. The record, containing all the evidence and pleadings in the cause, and from which he is to prepare

his statement, is before him: the authorities which bear upon the points, arising in it, are all collected by the researches of counsel: and while the arguments at the bar, and the views of the court are yet fresh in his recollection, he retires to his closet, and with these ample materials before him, he is enabled, with little labour, to prepare a report, which, with entire confidence, he sends forth to the world, to encounter, and to challenge the enlightened and searching criticism of the profession. To the editor, in the present instance, however, all these important aids were denied. By far the greater portion of the opinions, published in these volumes, came to his hands many years after they were delivered from the bench. No notes of the arguments were preserved by the late chief justice, in a single instance; and where the necessity of presenting a full statement of the material facts in a cause, was not dispensed with by its being incorporated in the opinion itself, no alternative remained, but to publish the bare opinion of the court, unaccompanied by the facts, essential to its elucidation, or, by patient and laborious investigation of the papers in the cause, which were, for the most part, extremely voluminous, to extract from them, a narrative of the facts, which constituted the basis of the opinion. To have taken the course first indicated, would have been an act of inexcusable injustice to the character of the eminent individual who had pronounced the opinions, to the profession, and to the editor himself. In such a state of things, it was impossible not to yield to the considerations which so sternly demanded, at the hands of the editor, the dedication of his time and labour, to the important work which he had undertaken: and the course which these considerations required, was adopted, without hesitation, and has been persevered in, without faltering, for years. The editor trusts, that these remarks will not be imputed to an unmanly wish, to exaggerate the labours and the obstacles he has encountered, or with any view to disarm the criticism of the learned profession, to whom they are addressed. The task, such as it was, was voluntarily assumed; and full well he knows, that it would be worse than idle to invoke the indulgence of those, by whose judgment the work now offered must stand or fall, to such of its imperfections as can, in fairness, be ascribed to the remissness, or incompetency of the reporter. But he also feels the strongest assurance, that in pronouncing a candid judgment on the result of his labours, they will not hesitate to attach their due weight, (and he asks nothing more,) to the untoward circumstances which he has detailed. The causes in which the opinions now published were delivered, were, generally speaking, of unusual complexity and difficulty. This remark is especially applicable to the equity decisions, which constitute a very large proportion of the entire work. It was, indeed, the practice of the late chief justice, to commit his opinions to writing, only in cases of real difficulty: and the fact, that all the opinions contained in these volumes, were written by Chief Justice Marshall, with his own hand, and were carefully preserved by him, furnishes an ample guarantee of their intrinsic value and importance. They are, indeed, altogether worthy of the exalted fame of the venerable judge, who, for so many years, adorned the

highest judicial station in our country. The earnest desire felt by the editor to render these volumes as extensively useful and convenient to the profession, as possible, suggested to him the propriety of embodying, in the form of notes, copious references to parallel cases decided in the highest courts, both in the United States and in England: and, especially, to such as were of a more recent date, than the opinions to which they should be annexed, respectively. This part of a plan, not originally contemplated, has also been carried into execution; and the editor flatters himself that these notes will be found to constitute a valuable addition to the work, particularly to gentlemen of the profession residing in the country, and who are precluded, by their situation, from having access to extensive and well selected libraries. Two of the following cases are republished from the sixth volume of Mr. Call's Reports. Their republication in these I volumes was demanded, not only by their intrinsic value, but by the importance of preserving, as far as it was possible, an unbroken series of the decisions of Chief Justice Marshall, in the circuit court of the United States, during the whole period of his judicial life. Two important cases, decided in the same court since the death of Chief Justice Marshall, are also added.

#### BROWN'S ADMIRALTY REPORTS.

[Brown, Adm.]

Reports of admiralty and revenue cases in the circuit and district courts for the Western lake and river districts from 1859 to 1875. By the Honorable Henry B. Brown, district judge. One volume. New York: Baker, Voorhies & Co., 1876.

The following preface will be found on page v:

If any apology be needed for adding another volume to the already crowded shelves of our professional libraries, it may perhaps be found in the fact that, in the multitude of reports issued since the adoption of the constitution, only about a dozen volumes of exclusively admiralty decisions are included; of these but one, viz., that of Mr. Newberry (of which the present volume is designed as a continuation) is devoted to cases arising upon the Western lakes and rivers. This volume was published in 1867, and is believed to be the last of the strictly admiralty series, excepting the 3d of Ware. By far the greater number of admiralty decisions are mingled with common law, equity, bankruptcy, and patent cases, and scattered through more than a hundred volumes of reports. Indeed this fact suggests the observation, that the present method of incorporating in the same volume these widely differing classes of cases is expensive, unphilosophical, and unsatisfactory. Few admiralty practitioners are interested in bankruptcy business, and yet to obtain the benefit of fifty admiralty precedents, they are obliged to purchase a volume containing at least an equal number of bankruptcy cases, and in the Circuit Court Reports a still larger proportion of common law and equity cases. The same is true of the patent lawyer, who is not infrequently compelled to purchase an entire volume to obtain the benefit of a single important case. Thus a great many who would gladly buy every book devoted to

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the branch of the law they particularly affect (and nearly every lawyer is more or less a specialist) are deterred by the expense from purchasing at all.

The reporter ventures to suggest to the profession that cases determined by the federal courts, instead of being reported by districts might more acceptably to the bar, and, in the end, more profitably to the publishers, be reported by classes, viz.: (1) Patent cases. (The most important of these have already been reported by the late Mr. Fisher.) (2) Admiralty cases. (3) Bankruptcy cases. (These are very acceptably collated in the Bankruptcy Register.) (4) Criminal cases and cases peculiar to the jurisdiction and practice of the federal court. No mention is made in this classification of ordinary cases at common law and equity, as they

are more satisfactorily, if not better, decided by the supreme courts of the several states, than they can be by a single judge.

The present volume contains the more important admiralty cases determined in the Sixth circuit during the last eighteen years. The accidents of compilation have limited it to cases arising in the two districts of Michigan and the Northern district of Ohio; but subsequent volumes, if published, will probably include cases from other districts. The fact that a large majority of these cases has arisen within the Eastern district of Michigan is due not more to the fortunate location of Detroit for admiralty business, than to the painstaking industry and marked ability of the late Judge Longyear. Without formal dedication to that effect, this volume is intended as a tribute of respect to the memory of that most excellent judge and upright citizen.

In selecting material, the following cases have been, with few exceptions, eliminated: (1) Cases turning solely upon questions of fact. (2) Cases reversed. (3) Cases affirmed by the appellate court and elsewhere reported. (4) Those reannouncing principles of law already well settled. (5) Cases reported in other volumes. Probably some of the cases here reported were hardly worthy the consideration, but it is hoped the volume may prove useful to those interested in this branch of the profession. I beg to acknowledge my indebtedness to my late partner Mr. Newberry, and to the several judges whose opinions are here published. Since the book went to press, the cases of *The Free State* [Case No. 5,090] and *The Colorado* [Id. 3,028] have been affirmed, and that of *The Sunnyside* [Id. 13,620] reversed, by the supreme court

#### BRUNNER'S COLLECTED CASES.

{Brunner, Col. Cas.}

Reports of cases in circuit courts prior to 1880. Collected and annotated by Albert Brunner, Esq. One volume. San Francisco: Sumner, Whitney & Co., 1884.

The following preface is from page iii:

The object in preparing this collection of cases has been to place before the profession, in a compact and accessible form, the decisions of the U. S. circuit courts, which are constantly cited in the federal digests, and treatises upon U. S. courts, and which have not been published in the regular series of reports. Frequent inquiries at our law libraries for such cases have shown the necessity for a collection of this nature. It has been the endeavor of the editor to include all the cases (except decisions on bankruptcy and revenue law), which have been decided in circuit courts throughout the United States, and which have been printed in law magazines, periodicals, etc., from the date of the earliest decisions to time of the publication of the Federal Reporter, which latter purports to include all circuit court cases decided since its inception. The bankruptcy cases in these courts are extremely voluminous, of little or no value at present, and most of these cases will be found in the Bankrupt Register. The decisions relative to revenue law are of

special interest only to a very few, and are to be found collected in the Internal Revenue Record. The cases comprising this collection, containing many valuable decisions on federal law, have been taken from the law periodicals, magazines, and states reports, current at the time when the decisions were rendered, many of which volumes are now out of print, and rarely found even in the most complete public libraries. The result of such a collection is in effect to complete the series of Circuit Court Reports, and to present in connection with the already published volumes of circuit court cases, easy access to any decision rendered by the circuit courts (with the exception above stated), which may be cited or referred to. There have been added to the cases, notes and references showing the citations thereto, and the effect of such cases in subsequent decisions.

#### CHASE'S DECISIONS.

{Chase.}

Sometimes cited as JOHNSON'S REPORTS. Cases decided by Chief Justice Chase in the circuit courts for the Fourth circuit from 1865 to 1869. An appendix contains the constitution of the Confederate States, and the conscription, impressment, and sequestration acts of that government Reported by Bradley T. Johnson, of the Virginia bar. One volume. New York: Diossy & Co., 1876.

The following is the preface:

The decision of the chief justice in the case of *Shorridge v. Macon* [Case No. 12,812], at the June term, 1867, of the circuit court for the Eastern district of North Carolina, made a profound impression on the bar of the late Confederate States. It was the first indication of the view which the federal judiciary would probably take on the legal questions arising out of the late status of war, questions which affected every interest, all property, and lay at the very base of social organization. If the issue of force, which had just been tried and decided in favor of the federal Union, was to be regarded by the courts of the successful side as nothing but rebellion, civil, tumult, and insurrection, then it was clear that no legal consequence could flow from it, nor could any acts of any agents, created by such rebellion, be acknowledged as having any legal and permanent consequences whatever. Acknowledgments of deeds, protest of notes, records of courts, judicial proceedings, contracts based on the existing state of things would, on that theory, all be void, and inextricable confusion and injury to society would be the consequence. If, on the contrary, the supreme court adopted the theory which the Southern bar believed the true one, warranted and required by every principle of public law, by the precedents of English history, and necessary to the restoration of peace and order in the South—if that august tribunal determined that the late war was war, to be judged by all the rules applicable to a war *inter gentes*, then the result would flow necessarily and certainly, that all the acts of all the officers, agents, and employees, as well as of the people of each one of the late Confederate States, would be recognized as valid by the federal tribunals, provided those

acts were not in aid of the war against the federal government. On such a sure basis we could look forward to a rapid recrystallization of society and reorganization of social order. When, therefore, the chief justice first sat in Richmond, his decisions attracted universal attention over all that country so vitally interested in the conclusions to which his mind would ultimately come.

It soon became manifest that he was rapidly comprehending the prodigious consequences that would flow from his decisions, and the discussion in *Keppel v. Petersburg R. Co.* [Case No. 7,722] was the first outgiving from him of the change that was going on in his mind since the case of *Shortridge v. Macon* [supra]. It then became clear that a body of decisions, discussing the fundamental principles of all law, must result from the questions



that would he submitted to him by the bar of Virginia and the Carolinas, and that these decisions would be of great value in settling all doubtful questions in the South growing out of the war.

I, therefore, proposed to the chief justice that, if agreeable to him, I would undertake the work of collecting his circuit court decisions for publication. He assented to the suggestion with gratification, and subsequently furnished me with copies of his decisions as fast as they were made on circuit. In the winter of 1872—73 it became apparent that his work was done. The decisions on the questions growing out of the war, made by him on this circuit and in the supreme court, had settled the principles on which the new constitution of the United States was to be administered under the new conditions of society, and his wise and statesmanlike views, impressed by him on the supreme court, had prevailed in nearly all courts, and peace and order were thereby largely restored. The manuscript of this volume was then submitted to him for revision, and he went over the whole of it with the reporter, making such corrections as he deemed necessary. They were generally merely verbal, and in the main consisted of softening the language or expressions used in alluding to the war. He struck out the words “rebellion,” “rebels,” “insurrection,” and “insurgents,” and substituted the words “civil war,” “belligerents,” etc., wherever the sense of the text would permit, and instructed me to do so wherever he had overlooked it. I had an appointment with him in “Washington the very day he left there for New York, and he postponed it until after his return, when it was proposed to see if there would be room in the volume for his decisions in the *Legal-Tender Cases* [110 U. S. 421, 4 Sup. Ct. 122]. and in the case of *Texas v. Chiles* [21 Wall. (88 U. S.) 488]. But he never returned, and I have left the book just as it came from his revision.

I hope thereby to contribute to the reputation of a judge whose large intellect, strong will, and clear perception of great principles have done much toward quieting discussion and settling differences of opinion on all legal questions growing out of the war, and has thus greatly contributed to the peaceful reorganization of society in the South. I have added the constitution of the Confederate States and the acts of the Confederate congress for the conscription of all arms-bearing citizens, the impressment act, and the sequestration act, by virtue of which exercise of power the Confederate government assumed and exercised control over all of its citizens, and over all property within its jurisdiction. I have done this in order that it may be seen what force, vigor, and vitality that government had, and to place on record our claims to have been treated as a government. Whether a government *de facto* or a government of paramount force, or a regent government, exercising the *occupatio bellica*, or a government *de jure*, overthrown by foreign conquest, the future historian will decide: we are not competent judges.

{Here follow proceedings upon the death of Chief Justice Chase, which will be found in the Biographical Notes, under Salmon Portland Chase.—Ed.}

## CLIFFORD'S REPORTS.

{Cliff.}

Reports of cases in the circuit court for the First circuit, from 1858 to 1878, being the decisions of the Honorable Nathan Clifford, associate justice of the supreme court. Reported by William Henry Clifford, counselor at law. Four volumes Boston: Little, Brown & Co. The volumes appeared at intervals from 1869 until 1880.

## CRABBE'S REPORTS.

{Crabbe.}

Reports of cases in the district court for the Eastern district of Pennsylvania, from 1836 to 1846. By William H. Crabbe. One volume. Philadelphia: T. & J. W. Johnson, 1853.

The following is the preface:

This volume takes up the decisions of the district court of the United States, for the Eastern district of Pennsylvania, from the period at which Gilpin's Reports terminate, and ends with the appointment of his honor, Judge Kane, now on the bench. I have, after considerable hesitation, included eleven bankruptcy cases in the following pages. The case of the Estate of Robert Morris, under the bankrupt law of 1800, was, perhaps, the least objectionable; the great amount of learning expended in the arguments and decisions in that case, and the knowledge that considerable landed interests, in this and another state, depended thereon, easily led to its introduction. The ten cases decided under the law of 1841 were selected, as involving points of the most general interest, from a very large number of manuscript opinions by Judge Randall on the subject, which I was not willing wholly to pass by. I feel bound to express my obligation and thanks for the kindness with which the notes of counsel have, in numerous instances, been placed at my disposal while preparing this volume for the press. There were many obstacles in the way of an intelligible report of cases so long since decided which these notes greatly assisted to remove, while, at the same time, they afforded the fullest and most reliable materials for an abstract of the arguments at the bar.

## CRANCH'S CIRCUIT COURT REPORTS.

{Cranch, C. C}

Reports of cases in the circuit court for the District of Columbia, from 1801 to 1841. By William Cranch, chief judge of the court. Six volumes. Vol. 6 contains only an index and table of cases. Boston: Little, Brown & Co.; Washington: William M. Morrison & Co., 1852.

The following preface is from vol. 1:

By the act of congress of the 13th of February, 1801, the congress of the United States passed an act entitled "An act to provide for the more convenient organization of the courts of the United States." By that act the United States were divided into twenty-two districts, and these subdivided into six circuits, in each of which, except the Sixth, there

were to be “three judges of the United States, to be called ‘circuit judges,’ one of whom was to be commissioned as chief judge”; and they were to hold circuit courts in their respective circuits. Afterward in the same session, congress passed the act of the 27th of February, 1801, entitled “An act concerning the District of Columbia,” and by the third section thereof, erected, upon the same model, a circuit court for the District of Columbia, “to consist of one chief judge and two assistant judges”: and conferred upon “the said court and the judges thereof” all the powers by law vested.

in the circuit courts and the judges of the circuit courts of the United States”; evidently referring to the act of the 13th of February, 1801, which they had previously passed at the same session; for, before that act, there had been no judges of the circuit courts of the United States, *eo nomine*—the circuit courts being then held by one justice of the supreme court of the United States and the judge of the district court of the district in which the circuit court was, for the time being sitting. Among the powers thus conferred upon the circuit court of the District of Columbia, were the power to hold special sessions for the trial of criminal causes,—the power to appoint a clerk in each of the two counties in the said District; namely, the counties of Washington and Alexandria.

By the fifth section of the act of February 27, 1801, it is enacted that the said court “shall have cognizance of all crimes and offences committed within said District; and of all cases In law and equity between parties both or either of which shall be resident, or shall be found within said District; and also of all actions and suits of a civil nature at common law or in equity, in which the United States shall be plaintiffs or complainants; and of all seizures on land or water; and all penalties and forfeitures made, arising or accruing under the laws of the United States.” By the first section of the act it is enacted, “that the laws of the state of Virginia as they now exist, shall be and continue in force in that part of the District of Columbia, which was ceded by the said state to the United States, and by them accepted for the permanent seat of government; and that the laws of the state of Maryland, as they now exist, shall be and continue in force in that part of the said District which was ceded by that state to the” United States and by them accepted as aforesaid.” And by the second section it is enacted, “that the said District of Columbia shall be formed into two counties; one county shall contain all that part of the said District which lies on the east side of the river Potomac, together with the islands therein, and shall be called the ‘County of Washington’; the other county shall contain all that part of said District which lies on the west side of said river, and shall be called the ‘County of Alexandria’; and the said river in its whole course through said District shall be taken and deemed, to all intents and purposes, to be within both of said counties.” By the seventh section of the act a marshal, and, by the ninth section an attorney of the United States for the District are to be appointed, and by the eleventh section as many justices of the peace as the president of the United States shall from time to time, think expedient; to hold their office for five years, and, in whatever relates to the conservation of the peace, to have all the powers vested in, and to perform all the duties required of, justices of the peace as individual magistrates by the laws of Virginia and Maryland respectively continued in force in the District by the first section of the act; and to have cognizance of personal demands, not exceeding the value of twenty dollars, extended to fifty dollars by the act of March 1, 1823. By the eighth section of the act of 27th of February, 1801, an appeal or writ of error to the supreme court of the United States is given,

from any final judgment, order or decree of the circuit court of the District of Columbia where the matter in dispute exceeds the value of one hundred dollars, afterward extended by the act of April 2, 1816, c. 39, to one thousand dollars. But where the value is more than one hundred dollars, and less than one thousand dollars, an appeal or writ of error may be allowed by a judge of the supreme court, "if he shall be of opinion that the errors involve questions of law of such extensive interest and operation as to render the final decision of them by the supreme court desirable." By the twelfth section of the act of 27th of February, 1801, a register of wills and a judge of the orphans court in each county are to be appointed, to have the like powers and to perform the like duties, as were then exercised and performed by the like officers in Maryland; and an appeal from the orphans' court to the circuit court is given. By the act of the 29th of April, 1802, a district court of the United States for the District of Columbia, having the same powers and jurisdiction which were by law vested in the other district courts of the United States is directed to be holden twice a year, by the chief judge of the District of Columbia, from whose judgment or decree a writ of error or appeal lies to the circuit court of the District, and from that to the supreme court of the United States. The act of the 13th of February, 1801, was repealed at the following session of congress, but that repeal did not deprive the circuit court of the District of Columbia of any of the powers which were, by the act of the 27th of February, given to it by reference to the act of the 13th of February. The circuit court of the District of Columbia is a court of the United States; and having jurisdiction over such a variety of cases, the reports of its decisions cannot but be interesting; and the facility with which its errors may be corrected by the supreme court gives great weight to such of its decisions as have been acquiesced in.

The cases here reported were cases arising under the constitution and laws of the United States, and the constitutions and laws of Virginia and Maryland, including the common law as adopted by those states; and including also causes of admiralty and maritime jurisdiction, and seizures on land or water for breaches of the laws relating to the revenue and the laws of trade and navigation; appeals from the district court of the United States for the District of Columbia; from the orphans' court in relation to guardians and the administration of the estates of deceased persons; and from the judgments of justices of the peace in civil causes within their cognizance. In general, the cases which were carried up to the supreme court, by writ of error or appeal, and affirmed, are not here reported;—having been already reported among the cases decided by that court; some few cases, however, which were reversed, will be found here reported as they appeared in the court below. As the circuit court for the District of Columbia is the tribunal to which is intrusted, either originally or by appeal, the execution of those laws which protect the personal liberty and property, not only of the citizens of the District, but of all the officers of the government, from the highest to the lowest, residing therein, and of the members

of both houses of congress; and of all the citizens of the United States visiting this neutral ground, the common domain of all the states, it seems to be peculiarly important that the decisions of that tribunal be publicly known. It is with this view that these Reports are now published.

#### CURTIS'S CIRCUIT COURT REPORTS.

{Curt}

Reports of cases in the circuit courts for the First circuit from 1851 to 1856. By the Honorable Benjamin Robbins Curtis, associate justice of the supreme court, allotted to that circuit. Two volumes. Boston: Little, Brown & Co. Vol. 1 was published in 1854; vol. 2 in 1857.

The following preface is from vol. 1:

This volume includes a part of the cases tried in the First circuit since the autumn of 1851. In making the selection, I have endeavored to insert only those which might be useful to the profession. A few of those which turned wholly on the local law of a particular state, I have inserted in accordance with the wishes of gentlemen of the bar of those states.

DAVEIS' REPORTS.

{Daveis.}

See "Ware."

DEADY'S REPORTS.

{Deady.}

Reports of cases in the circuit and district courts of Oregon and California from 1859 to 1869. By the Honorable Matthew P. Deady, district judge. One volume. San Francisco: A. L. Bancroft & Co., 1872.

The following is the preface:

In submitting this volume of Reports to the profession, a word of explanation in regard to the organization of the courts, in which the cases were decided, is deemed proper. The district court, in Oregon, was organized in September 1, 1859, under the act of March 3, of that year (11 Stat. 437), and had circuit court powers and jurisdiction until the creation of a separate circuit court for the district, by act of March 3, 1863 (12 Stat. 794). The cases entitled in the circuit court for the district of California, were decided while I held that court during portions of the years 1867—8—9, in pursuance of the designation of Justices Chase and Field of the supreme court.

DILLON'S CIRCUIT COURT REPORTS.

{Dill.}

Cases in the circuit courts for the Eighth circuit from 1870 to 1879. Reported by the Honorable John F. Dillon, circuit judge Eighth circuit. Five volumes. San Francisco: Sumner, Whitney & Co., 1885 (2d edition). The first edition was published by Egbert, Fidler & Chambers, Davenport, Iowa, the last volume appearing in 1880.

The following preface is from vol. 1:

This is the first volume of a proposed regular series of reports for the Eighth circuit. No judicial tribunal in England or America has conferred upon it powers so comprehensive and various as those of the circuit courts of the United States. Their jurisdiction is original and appellate, civil and criminal. They are constantly adjudicating cases which are elsewhere intrusted to distinct tribunals. Nearly every question of a nature to come before the queen's bench, the common pleas, the chancery, the exchequer, the admiralty, or the bankruptcy courts of Great Britain, may, in an original or appellate form, come before the circuit courts of the United States. Besides, in a great variety of cases, arising under the

constitution and laws of the general government, they have original jurisdiction, exclusive of all other courts. The reports of cases determined by tribunals to which are confided powers so diversified and important, possess a character, and ought to have a value, distinctively their own.

In Mr. Woolworth's Reports, recently published, are collected the hitherto scattered decisions of Mr. Justice Miller, since he was assigned to this circuit, down to the date of the re-organization of the courts by the act of congress of April 10, 1869, which provided for the appointment, in each of the existing circuits, of a circuit judge, to whom, within the circuit, is given the same powers and jurisdiction which are possessed by the justice of the supreme court allotted to it. I cannot refrain from here expressing my sense of the value of Mr. Woolworth's admirable volume. The cases are nearly all new or important, and the learning and industry of the reporter are only less marked than the ability and intellectual vigor of the judge. Regularly there will be included in these Reports only such of the current cases as are believed to be important in principle, or useful to the practitioner in the federal courts. Most of the states aid the publication of their law reports; and to some extent this is done by congress, in respect to the decisions of the supreme court of "the United States. But the reports of the circuits must stand on their unassisted merits, and since their publication is attended with much labor and little reward, no temptation exists to multiply them too rapidly by reporting useless cases. There is to some extent a distinctive character in the litigation of the different circuits. This is manifestly true of the Eighth, comprising six large, populous, and growing states: Minnesota, Iowa, Missouri, Arkansas, Kansas, and Nebraska. Within this circuit are large commercial centres, giving rise to characteristic controversies. Bounded as the circuit is, for nearly two thousand miles on the Mississippi, and traversed by the Missouri and other great water-courses, there originates on this vast inland navigation a large amount of admiralty business, of a character somewhat different from that in circuits bordering on the great lakes or the high seas. This circuit, too, it should be added, extends to Lake Superior, whose growing commerce is already furnishing the federal courts with admiralty causes. Four districts in the circuit stretch so far westward that they embrace various Indian tribes, sustaining different treaty relations to the general government, and peculiar relations to the states, within whose boundaries they remain; from whence we have here litigation of an anomalous, yet most interesting nature. The circuit embraces also a large amount of the public domain, some of which has been granted to railway companies, and to different states, for specified objects: but much of which is yet subject to the various land laws of the United States, including the beneficent and salutary pre-emption and homestead acts. These circumstances, too, leave their impress upon controversies that find their way into the national courts within the circuit. Besides which, it has its share of cases in bankruptcy, and those relating to railway, insurance, revenue, commercial and corporation law. A field



## YesWeScan: The FEDERAL CASES

so vast, and one so rich in the variety and character of the materials which, with proper attention, it can be made to contribute to the building up of a symmetrical system of national jurisprudence, ought, surely, not to be neglected. Considerations like these, which the reporter has persuaded himself will meet with the approving judgment of an enlightened profession, have moved him to attempt to do his part in this useful work; and to preserve, in an authentic form, for the use of others, the results of some of the labors of his co-workers and himself. The chief requirements of a law report—a clear but not prolix or redundant statement, perspicuous head-notes, and a full but not diffuse index—the reporter has endeavored to meet in the preparation of this volume. What appears in the head-notes, is intended to be the statement of a point, or principle, involved in the case and actually decided, unless the contrary be therein indicated. A few cases, involving the construction of state statutes, have been included in the volume; but for this a reason existed, either in

the fact that they were upon important subjects, or because the local statute had not been settled by state adjudication. To some of the cases notes have been added by the reporter, who trusts that they will be regarded as worth the brief space they occupy.

#### FISHER'S PATENT CASES.

[Fish. Pat. Cas.]

Reports of cases arising under letters patent for inventions in the circuit courts from 1848 to 1873. By Samuel S. Fisher, counselor at law. Six volumes. Vol. 6 was completed after Mr. Fisher's death, by John E. Hatch and Robert H. Parkinson. Cincinnati: Robert Clarke & Co., 1870-1874.

The following preface is from vol. 1:

When the publication of these Reports was determined upon, it was supposed that they might be included in a single volume; but, before the first pages were printed, so many cases had been received, that it was apparent that two volumes would scarcely contain them. This, together with the great difficulty of reporting a patent case intelligibly, in the absence of drawings or models, without much prolixity of statement, and the fact that a recital of facts, amply sufficient to enable the practitioner to comprehend the case, is embodied in nearly every opinion, led the reporter to omit the arguments of counsel entirely, and to limit himself to such brief statement as seemed to be needed for a full understanding of the language of the court. Without a rigid adherence to this plan, the number of volumes would have been doubled, without, it is believed, materially enhancing the value of the Reports. As some of the earlier cases were decided nearly twenty years ago, and many of the judges, whose opinions are reported, are no longer living, it was not easy to procure any accurate information in regard to them. Nevertheless, it is believed that no decision or charge is reported in this volume, that is not given in the words of the judge who delivered it, or in language adopted by him after revision; and, to avoid all possible risk of misstatement, or misapprehension as to the point decided, or as to dicta believed to be valuable, the language of the court, as far as possible, is used in preparing the syllabus of each case. The principal sources from which these Reports have been supplied, have been manuscripts furnished by the judges themselves; certified copies of opinions, from the originals on file in the various clerks' offices; pamphlet opinions revised by the judges and furnished by reliable counsel, and publications in law magazines and other accredited legal journals. Many thanks are due to the judges, clerks and counsel who have assisted in furnishing opinions, charges, briefs and memoranda, without which the publication of such a work would have been impossible.

The following preface is from vol. 2:

This volume brings the reports of cases down to the close of the year 1865. The reporter confesses to some disappointment at being unable to include at least another year, but it was impossible to do so within the compass of a volume of reasonable size. It is

true that some of the eases reported relate mainly to questions of fact, and do not involve any legal point of special interest; but, since patent suits are now almost universally brought on the equity side of the court, every practitioner in this specialty will realize the importance of a knowledge of the manner in which the judges of the several circuits deal with questions of fact. As a volume of reports in a single department of the law must necessarily have a limited circulation, and would present very few attractions to publishers, it seemed as if the profession must depend for such a book upon individual enterprise. A limited edition, at a somewhat advanced price, which could be speedily disposed of, was the only manner in which the labor of publishing and distributing such a work could be reconciled with more legitimate professional engagements. Every page has been carefully read not less than three times, and yet a few typographical inaccuracies have escaped notice. It was a less excusable error that led, in the first volume, to a mistake in the name of the late learned judge of the Eastern district of Pennsylvania, and to the affixing of a star to the name of one, who, though no longer on the bench of the court for the district of Massachusetts, which he so long graced by his industry, learning, and marked ability, still lives, to enjoy, in the respect of his fellow-citizens and of the profession who are so much his debtors, the reward of a long, laborious, and successful career in the impartial administration of private right and public justice.

The following preface is from vol. 6:

This volume was commenced by Hon. Samuel S. Fisher, under an arrangement by which the undersigned [John E. Hatch and Robert H. Parkinson] were to assist him in its preparation. The cases to be reported were selected by him, and a little less than one-third of the volume had been prepared for the press under his supervision, when his death devolved upon them the responsibility of carrying on and completing it. This has been done, so far as possible, in conformity to the original plan. The more legitimate engagements of the profession, rendered unusually pressing by Mr. Fisher's sudden withdrawal, have been made to yield to the purpose of completing the volume with such accuracy, fullness, and thoroughness, that it might not prove an unworthy companion of its predecessors. This brings the series of Reports down to the beginning of the present year.

#### FISHER'S PATENT REPORTS.

{Fish. Pat. R.}

Reports of cases relating to letters patent for inventions determined in the supreme and circuit courts from 1821 to 1851. By William Hubbell Fisher. One volume. Cincinnati: Robert Clarke & Co., 1873.

The following is the preface:

These Reports, of which the present is the first volume, embrace all the patent cases of the United States supreme and circuit courts not included in Robb's Patent Cases and Fisher's Patent Cases. The syllabus of each case has been newly prepared, and the

statement of each, case carefully revised with special reference to the exigencies of patent suits. All material portions of the specifications of the patents involved in controversy have been inserted. Numerous engravings illustrating the mechanical devices involved in controversy have been added. Heretofore, the majority of the adjudications in patent cases upon the mechanism in litigation were wholly useless, because mechanism cannot be well understood from mere written description. The engravings render the decisions on the mechanism in dispute at once intelligible and capable of being effectively cited in deciding analogous mechanical questions involved in pending cases. The author here takes occasion to say he is under many obligations to

the learned reporters of the various Reports for those portions of their admirable statements of cases which he has incorporated into this work. He also expresses his obligations to the Honorable Samuel S. Fisher for many valuable suggestions as to the preparation of the work. With the hope that this work may contribute something to the advancement of the practice and litigation under the patent laws of the United States, the author submits his work to the public.

#### FISHER'S PRIZE CASES.

[Fish. Pr. Cas.]

Cases decided in the district and circuit courts for the Pennsylvania district from 1812 to 1813, with one case from the district court for Massachusetts. Reported and published by Redwood Fisher. Philadelphia, 1813. The volume was reprinted without change in 1871.

The following is the preface:

The restricted state of our commerce consequent to the impolitic system adopted by the government of the United States, and its further diminution by the disastrous war with England, have left us no means for the export of the products of the United States but by the employment of licenses or passports. The decisions of such of the courts of the United States, as have been called on to determine upon the legality of these passports are therefore deemed peculiarly interesting to the public. The national legislature having refused to enact laws, prohibiting the use of such safe-guards, by the few American ships which navigate the ocean; unless the judiciary shall consider their employment unauthorised by law; the merchant, may still enjoy a small portion of that commerce, which under a wiser administration and better auspices, would know no limits.

#### FLIPPIN'S REPORTS.

{Flip.}

Reports of cases in the circuit and district courts for the Sixth circuit from 1859 to 1881. By William Searcy Flippin, Esq. Two volumes. Chicago: Callaghan & Co., 1882.

The following preface is from vol. 1:

The reporter hopes that this volume will meet with a fair reception at the hands of the profession. When his mind was made up to the task of preparing a series of reports for this circuit, he at once set himself to the work of collecting all available and valuable material, and succeeded in getting into his possession a large number of cases decided within the last twenty years. Some of these, however, related to questions growing out of the war and its incidents, and were not thought to be of sufficient interest or importance for publication at this day. The bankrupt act being repealed, it was deemed best to omit all cases growing out of the same, except where other questions of permanent value were discussed. Of the cases found herein, it will be seen that twelve were decided by Halmer H. Emmons, all bearing unmistakable marks of his high abilities. As his judgments (he

was often so pleased to term opinions,) shall be better known to his surviving brethren his fame will grow wider and brighter—just as they begin to duly appreciate the truth that a great master has left them forever. The case of *Tait v. New York Life Ins. Co.* [Case No. 13,726], a most important one, is reported in full, as also *Talcott v. Pine Grove* [Id. 13,735], *Memphis v. Brown* [Id. 9,415], and *Sharpleigh v. Surdam* [Id. 12,711]. The merits of the opinions in these cases need no other reference. A number of Judge Brown's opinions are reported in the volume, as well as decisions by Judges Withey, Welker, Swing, H. V. Willson, Sherman, Ballard and Trigg. Judges McLean, Swayne and Miller wrote others. Questions in almost all branches of the law have been fully and elaborately discussed. Some difficulty was found in ascertaining the respective times at which certain of the opinions were delivered, as also the names of counsel representing the different parties, but the hope is entertained that no good ground of complaint will be found to exist because of a failure in this regard. In the next volume, perhaps, the task will be easier. In this connection, thanks are tendered to that distinguished veteran in the profession, Hon. Rufus P. Ranney, of Cleveland, for copies of opinions of Judge H. V. Willson and to his firm, and to Messrs. Willey, Sherman and Hoyt of the same city, for other courtesies. Upon consultation, Judges Swayne, Baxter and Hammond gave the reporter a written consent and approval of what he is now doing. They were of opinion that they had no power to appoint an official reporter, but were willing to confer upon the undersigned all the authority which they felt they possessed, and that was their consent and approval of his undertaking, adding their best wishes for his success. This was the mode adopted by reporters and judges under the old English system. To some of the cases notes have been added, which it is hoped may prove of some service. The one on page 513, through mistake, crept into the body of the opinion.

The following preface is from vol. 2:

One of the district judges having suggested that he experienced considerable difficulty in finding federal decisions on points of criminal law, it was deemed advisable to insert a few cases of that character in this volume. An effort was made to bring the decisions down to July 1, 1882, but the publishers found that this would make the book too large, and wholly out of proportion to the first volume.

#### GALLISON'S REPORTS.

{Gall.}

Reports of cases in the circuit court for the First circuit, from 1812 to 1815. By John Gallison, Esq. The first edition was published in 1815—1817; second edition in 1845. Boston: Charles C. Little and James Brown.

The following advertisement is from vol. 1:

All the cases, which appear in this volume, were decided before the subscriber assumed the office of reporter. It is much to be regretted, that the gentleman [John Stickney,

Esq.], who preceded him, was compelled by his literary and professional pursuits, not only to relinquish the office, but to decline the labor of preparing the Reports for publication. The task would no doubt have been executed by him in a manner far more satisfactory, than was possible for one, who, to say nothing of other causes, was not present at the arguments, and was, therefore, but ill qualified to fill up the outline of the minutes taken in court. In many of the cases of the fall circuit, 1812, a slight sketch of the argument has been attempted, and the editor feels it his duty to apologize to the counsel for the very imperfect manner, in which it has been done. A consciousness of this imperfection, combined with the discovery, as the

work progressed, that it would exceed the proposed number of pages, induced him, in the succeeding cases, to confine the report to the bare statement of facts, and the opinion of the court, which fortunately has been uniformly in writing. In general, however, a very full account of the points raised will be found in the opinion. The subscriber hopes shortly to offer to the public more full reports of the many important cases, which were decided in the year 1814. This, however, will in some degree depend on the encouragement, the present volume may receive. When the proposals for this work were issued, it was supposed, that five hundred pages would easily contain all the cases intended to be published. Though they have, in fact, extended to six hundred and fifty pages, it has been thought best to bring down the Reports to the year 1814, omitting only such cases as appeared to involve no important legal principles. It is presumed, that this course will be most satisfactory to subscribers. It has however rendered necessary the addition of one dollar to the price, in order to secure the reimbursement of the expense of publication.

The following advertisement is from vol. 2:

Most of the questions, which are agitated in the courts of the United States, are remote from any of the ordinary subjects of discussion in other tribunals. They form a new and distinct branch of law, connected with some of our most important rights and interests. The construction of the federal and state constitutions, of treaties, and of the laws regulating our foreign commerce; the fixing of the boundary, which marks the division of power between the whole confederacy, and its several members; the limits of the jurisdiction of the national courts, as courts of common law, chancery, admiralty and prize; in what cases this jurisdiction is exclusive, and in what concurrent with the courts of the several states; all these are topics, which must long continue to supply cases of great legal doubt, the decisions upon which will form a body of public law of the United States. The revenue laws afford another class of questions of great interest, not only to the citizen, who may often be compelled to resort to the treasury for relief from penalties incurred through mistake or ignorance; but to the numerous officers, who are appointed to watch over the execution of these laws, and to whom an accurate knowledge of the extent of their powers and duties is in the highest degree important. If to these are added the many admiralty and maritime causes, which affect the interests of navigation and commerce; the large class of contracts and civil injuries, as well as crimes and offences, which belong to this branch of the jurisdiction of the federal courts; it will be sufficiently apparent, that their decrees ought not to be confined within the walls, where they are pronounced. Nor is it enough to publish the decisions of the supreme court only. Those of the circuit courts are final in by far the greater part of the cases, that are brought before them. In revising, on writs of error, the judgments of the district courts, they must in all cases decide in the last resort with the single exception provided by the sixth section of the act of 1802, c. 31. Numberless questions will necessarily arise and receive their determination in these



courts, especially in commercial districts and in cases relating to the revenue laws, which will never reach the supreme court. Of this fact abundant proof will be found in the ensuing volume. These considerations will, it is hoped, be sufficient to excuse the addition of another to those numerous volumes of Reports, to which at their present rate of increase, the “mille plaustrorum onus” of Heineccius [preface to Vinnius] may soon, without a very extravagant hyperbole, be applied. If any thing may be anticipated from the favorable reception of the former volume, that now offered, containing cases not less important in principle or useful in practice, will not be unacceptable to the profession. (Mr. Hoffman, in his “Course of Legal Study” ([2d Ed.] p. 460,) recommends the following cases as leading cases: The Alligator [Case No. 248]; The Rapid [Id. 11,576]; The Grotius [Id. 5,844]; The Julia [Id. 7,575]; The Invincible [Id. 7,054]; *Maisonnaire v. Keating* [Id. 8,978]; The Jerusalem [Id. 7,294].)

In stating the arguments of counsel, the reporter has aspired to no other merit, than that of being brief, accurate and perspicuous. He alone must, in general, be responsible for the language employed. Where the case appeared to possess a more than ordinary degree of importance, the arguments have been reported in a more extended form. All the authorities cited have, it is believed, been retained, and the references, both in the arguments and opinions, have been carefully compared with the books referred to. Particular care has been taken to notice and preserve such points of practice, as arose incidentally, and were not of sufficient importance to call for a written opinion. But, whatever care and diligence may have been used, the reporter is conscious of many defects, for which he must claim the indulgence of the profession. At the period, which closes the present volume, he found his other engagements incompatible with a further attention to the duties of reporting. The work will be continued by a gentleman, whose qualifications ensure the successful performance of his undertaking.

#### GILPIN'S REPORTS.

{Gilp.}

Reports of cases in the district court for the Eastern district of Pennsylvania, from 1828 to 1836. By Henry D. Gilpin. Philadelphia: P. H. Nicklin and P. Johnson, 1837.

The following note, addressed to Judge Hopkinson, district judge, E. D. Pennsylvania, will be found on page iii:

This volume of reports, deriving its chief value from his genius and learning, is respectfully inscribed, as some acknowledgment of his uniform kindness and courtesy, throughout a constant official intercourse of several years.

#### HASKELL'S REPORTS.

{Hask.}

Reports of judgments of Hon. Edward Fox, district judge from the district of Maine, from 1866 to 1881. By Thomas Hawes Haskell, Esq. Two volumes. Portland, Me.: Loring, Short & Harmon, 1887–1888.

The following preface-is from vol. 1:

Soon after the death of Judge Pox his executor placed in my hands the MSS. of his judicial opinions to be edited. Having devoted to this work such time as was free from more imperative duties, I now present the result in two volumes of reports. I have endeavored to verify all citations and quotations and to guard against all errors of the press, and I only desire that my work may be charitably received and prove valuable to my professional brethren.

HAYWARD AND HAZLETON'S CIRCUIT COURT REPORTS.

[Hayw. & H.]

Reports of cases, civil and criminal, in the circuit court for the District of Columbia, Washington county, from 1840 to 1850. By John H. Hayward, Esq., and George C. Hazleton, Esq. Washington: William H. Lowdermilk & Co., 1892.

This is the first volume of a series designed as a continuation of Cranch's Circuit Court Reports, and may be cited as 1 Hayw. & H. D. C, or as 6 U. S. Cir. Ct. Rep. D. C. 6 Cranch is merely an index and table of cases for vols. 1-5. These should not be confused with the Reports of the supreme court of the District, the first of which is sometimes cited as 6 D. C., etc.

The following preface is from vol. 1:

This is the first of a series of Reports which when completed will cover a period of time from 1840 to 1863. These Reports will complete the link in the chain of records of the courts of the District of Columbia for that period, and be of great value and importance to the profession. In producing the same, all sources which could furnish any information upon the subject have been carefully explored, the records thoroughly examined, so that the work when done could be as authoritative and correct as possible. Heretofore there have been no accessible reports of the proceedings in this jurisdiction since the Reports of Judge Cranch, which left off at the November term of 1840. These Reports commence at the March term of 1841, and will complete the interval from 1840 to 1863, when the courts of the District of Columbia were reorganized. The cases are arranged in terms, and can easily be found and verified from the court records, and where found in cotemporary works they are given from them in full, with the necessary corrections and additions. There is not another jurisdiction in the United States in which the cases are so varied. As Chief Judge Cranch said: "It is the tribunal to which is intrusted, either originally or by appeal, the execution of those laws which protect the personal liberty and property, not only of the citizens of the District, but of all the officers of the government, from the highest to the lowest residing therein, and of the members of both houses of congress and of all the citizens of the United States, visiting this neutral ground, the common domain of all the states, it seems to be peculiarly important that the decisions of that tribunal be publicly known." Here can be found cases of admiralty from the district court, of mandamus against the officers of the government, habeas corpus against arbitrary arrest by congress, writs of error from the criminal court, appeals from the orphans' court, justices of the peace, and the commissioners of patents. In addition to this it had a general jurisdiction in law and equity in cases in which either of the parties reside without the District. The five volumes of Cranch, with this volume and either one or two others which are to follow, we have thought it better to number consecutively, as they are reports of the United States circuit court. It is therefore proper, as this is a continuance

of the valuable work of Judge Cranch, to style it "6th United States Circuit Reports of the District of Columbia and also 1st Hayward and Hazleton's Reports of the United States Circuit Court of the District of Columbia." That the work is necessarily imperfect must be expected, considering the meager sources from which the cases are compiled. The dust and files of the old circuit court have been uncovered in obtaining the material necessary to make this volume as complete as it is.

Mr. Hayward had completed four numbers of this volume, embracing the first two hundred and twenty pages thereof, which can now be found in some of the private and public libraries of the city, and which is known as "Hayward's Reports of the Circuit Court of the District of Columbia." In the preparation of the remaining portion of this volume, he has associated with him, and has had the cooperation and assistance of, Mr. Hazleton. which he takes pleasure in saying has enabled him not only to present this volume to the public much earlier than he otherwise could have done, but which has added materially to the efficiency and value of the work itself.

The following preface is from vol. 2:

The original design of Hayward and Hazleton to publish, in convenient form, the decisions of the old circuit court for the District of Columbia, made during that period of its history which dates from the issue of the last volume of Cranch, in 1840, to the abolition of the court by the act of congress, approved March 3, 1863, is complete and is concluded in this volume, to be designated "7th U. S. Circuit Court Reports for the District of Columbia and 2d Hayward and Hazleton's Reports of the United States Circuit Court for the District of Columbia." These two volumes of reported cases have been compiled and printed from manuscripts of the original records of the cases themselves, as found on file in the court archives in the city hall, and are, therefore, commended to the public, and to the profession, for their accuracy. As will be seen by their perusal, we have prefaced each case with a carefully prepared syllabus intended to present an accurate synopsis of the material points therein passed upon by the court. Some of these decisions, such as involve important constitutional questions and proceedings in mandamus, may serve the profession and the courts as precedents in future adjudications. The organization of this court consisting of one chief judge and two assistant judges, followed very closely upon the organization of the government itself. Congress conferred upon it, by the act which created it, a broad and well defined jurisdiction. They gave it rank and legal power co-equal with the circuit courts of the United States. They expressly conferred upon it, "cognizance of all crimes and offences committed within said district, and all cases in law and equity between parties, both, or either of which shall be resident, or be found within said District, and also of all actions or suits of civil nature at common law or in equity, in which the United States shall be plaintiffs, or complainants, and of all seizures on land or water, and all penalties or forfeitures made, arising or accruing under the laws of the

United States.” The territorial jurisdiction of the court originally embraced the counties of Washington and Alexandria, and the waters of the Potomac coursing between them, and forming the District of Columbia. The latter has now within its limits the county of Washington; the county of Alexandria having been receded back by congress to the state of Virginia. The court was created by an act of congress, approved by President Adams, as early as February 27, 1801, at a period when the judicial power of the government was in its infancy, and exercised the jurisdiction conferred upon it by law, and administered justice upon the rights and property of men for more than a half century of its history. Its judges ranked well as jurists, while some still merit and receive distinguished consideration for the skill they evinced, and the contributions they made

to American jurisprudence. It will be found that lawyers of great learning and ability took part in these proceedings, in some instances distinguished talent in the profession from the states. This work has not been one of profit, and we shall scarcely realize enough out of the sale of the entire edition issued to pay the expenses incurred in its publication, but this is immaterial, as we shall find our compensation largely in the pleasure afforded us in thus rescuing from practical oblivion decisions of merit and value, as we believe, to the profession and to the community.

#### HEMPSTEAD'S CIRCUIT COURT REPORTS.

[Hempst.]

Reports of cases in the superior court of Arkansas territory, from 1820 to 1836, and in the district and circuit courts for the district of Arkansas, from 1836 to 1856. By Samuel H. Hempstead, Esq. One volume. Boston: Little, Brown & Co., 1856.

The following is the preface:

This volume of Reports is presented to the profession to preserve the decisions of the federal courts of Arkansas in a more enduring form than in tradition. Adjudged cases become precedents, and it is therefore important that they should be known. In fact, if we have to appeal to recollection, or neglected records, justice safely administered can hardly be expected. Those practising in these courts have felt the inconvenience arising from the want of a published report of their decisions. If this volume shall wholly or partially remove the evil, my labor will not have been lost. It can never be a source of profit to me, and certainly distinction is not won by performing the duties of reporter. It forms a sort of judicial history of Arkansas from its commencement as a territory down to this time, and in that point of view will possess some interest there, if not elsewhere. The decisions of the superior court are embraced, because it is conceded on all hands that the court was always an able one; and although this book, no doubt, contains many cases of little or no value, yet in that respect it is not different from other Reports. Whilst tautology has been omitted in the opinions, the substance, and generally the exact language of the court, has been preserved. Cases sustaining a principle decided have been added; and if time had permitted, I should have made full notes to the cases. The late Benjamin Johnson, of Arkansas, who sat in those courts for nearly thirty years, and was their pride and ornament, generally wrote out his opinions, and before his death placed such as had been preserved in my hands. [Here follows a eulogy of Judge Johnson, which will be found in the Biographical Notes.]

#### HOFFMAN'S LAND CASES.

[Hoff. Land Cas.]

Reports of land cases in the district court for the Northern district of California, from 1853 to 1858, decided by the Honorable Ogden Hoffman, district judge. One volume. Reported and published by Numa Hubert. San Francisco, 1862.

The following is the preface:

The accompanying volume contains all the opinions delivered by the judge of the United States district court for the Northern district of California, in land cases, during the time over which the Reports extend. They were obtained by the reporter, with the judge's permission, from the files, and are published as originally prepared and delivered. There has also been added a list of the governors of California from its first settlement, etc., together with a sketch of the early history of Upper California. In the appendix will be found a carefully prepared table of all the claims presented to the board of commissioners, with the number of each on the docket of the commissioners, and of the district court to which it was appealed, and the corresponding number on the Index of Jimeno; also the name of the claimant, of the original grantee, the date of the grant, and the name of the rancho and of the governor who granted it, the quantity claimed, the county in which it lies, a brief statement of the proceedings with regard to it before the board, the district and supreme courts, the number of acres when surveyed, whether a patent has been issued, together with a full index of the names of ranchos and of claimants. It is hoped the volume will be found useful to the profession.

#### HOLMES' REPORTS.

[Holmes.]

Reports of cases in the circuit courts for the First circuit, from 1870 to 1875. By Jabez S. Holmes. Boston: Little, Brown & Co., 1877. One volume. covers the same period as 3 and 4 Cliff., but does not contain any cases which appeared in those volumes.

#### HUGHES' REPORTS.

[Hughes (U. S.).]

Reports of cases in the circuit and district courts for the Fourth circuit from 1870 to 1883, with some old cases beginning in 1792. By Hon. Robert W. Hughes, district judge. Five volumes. Vols. 1—3 were published by W. & O. H. Morrison, Washington, 1877-80; vols. 4-5, by Banks & Bros., New York, 1883. The last volume is devoted to admiralty cases from 1808 to 1883.

The following preface is from vol. 1:

The decisions of the courts of the United States in the judicial circuit now designated as the Fourth, so far as yet published, are embraced in the two volumes of Burr's Trial, by David Robertson; the two volumes of Marshall's Decisions, published by John W. Brockenbrough; the volume of Taney's Circuit Court Decisions, published by J. M. Campbell; and the recent volume of Chief Justice Chase's Decisions, published by Bradley T. Johnson. In an appendix to Sixth Call's Virginia Reports are five decisions, three of which are not elsewhere to be found,<sup>1</sup> one of them by Chief Justice Jay, and the other two respectively by Associate Justices Iredell and Washington. These three cases, in order that they may be found in some volume of United States Reports proper, are incorporated into the

present volumes. I have also incorporated a decision of Chief Justice Ellsworth never before published in a permanent form, and two other cases, from Francois Xavier Martin's *Notes of North Carolina Decisions*, published in 1797. [Hamilton v. Eaton, Case No. 5,980; Jones v. Neale, Id. 7,483.] This author was afterwards



chief justice of the supreme court of Louisiana. The present volumes contain all the decisions up to this time made by Chief Justice Waite which he has reduced to writing; and all decisions of Circuit Judge Bond preserved in manuscript form, which I have been able after careful endeavor to obtain. To them I have added a number of decisions in circuit court made by the several district judges sitting there. I probably owe an apology to the profession for including in the present volumes so many decisions in bankruptcy and admiralty of the district courts, and especially so many which have been made by myself. But, in truth, the necessity which was felt to exist of publishing these district court decisions, suggested the publication of those also which I could collect of the circuit courts.

The admiralty jurisdiction of the ports and waters of Chesapeake Bay, and of the ports of the Carolinas, has been fruitful of many important cases, reports of which cannot fail to be interesting to admiralty lawyers generally, while they are almost indispensable to those who practice in the admiralty courts of the Fourth circuit. Many cases are decided in the admiralty courts proper, which do not reach appellate courts. These decisions are upon points most frequently arising in practice, and the rulings in them are really of more practical value to the admiralty lawyer than those often are in the exceptional cases which go up by appeal for final determination. These remarks apply with greater force to the decisions of the courts of bankruptcy contained in these volumes. In the single district of Eastern Virginia, there have been filed 6,455 cases in bankruptcy, and 161 suits connected with bankruptcy; 6,616 in all. When the writer came to the bench, in January, 1874, under rulings of circuit and supreme courts then recently and soon afterwards made, a large proportion of these cases were brought before him by petition praying the setting aside or modification or review of former orders and decrees made in them. Naturally, the action of the court upon these petitions suggested or required written explanations of the principles on which the court acted. These written decisions had often to be referred to in subsequent cases, and a desire for the publication of them in compendious and convenient form accessible to the bar has become general. These are the considerations which have induced the writer to insert many of the more important of his own decisions in bankruptcy in the second volume, and to collect from other districts of the circuit like decisions of his brethren of the bench. This he has done with diligence, and he regrets that he has been able to collect comparatively but few of these last.

Although the decisions in these volumes are not published under distinct classifications, yet the reader will find that they are in fact grouped in the following order, viz.: cases in equity, cases at law, indictments, ex parte proceedings under extraordinary writs,—these in the first volume; and, in the second, admiralty cases and bankruptcy cases. Near the end of each volume will be found a few cases dislocated from these groups. But for the feeling that reports professing to cover the period of the political offences against the civil rights and enforcement acts which have been tried in this circuit, would be deficient, if

not embracing at least as many of the cases as exhibit the principles of law on which they turned, I should have gladly omitted the whole subject from these volumes. I reflect, however, that these are books for lawyers and not for politicians or the populace; that the whole class of civil disorders out of which the trials grew have ceased, I hope and believe, forever; and that even if there be in the evidence as reported anything which, in worse times than the peaceful era which we now have entered and confidently anticipate, would tend to produce or keep alive excited feeling, no such effect is or will be possible. I am sure that no public evil can come from publishing the three or four trials of the class alluded to which are given in these volumes; and I should regret to find that in the manner in which the evidence has been reported any individual or class has been wronged either by omission or exaggeration.

The following preface is from vol. 4:

The present volume of decisions in the common law, equity and bankruptcy courts of the United States, held in the Fourth judicial circuit, will be followed by a volume of admiralty decisions, now in press. These two volumes will terminate the present series of Reports, as the object of their publication will henceforth be fully subserved by the Federal Reporter, edited by Robert Desty, Esq., and published by the West Publishing Company, of St. Paul, Minnesota. That book furnishes with admirable promptness and fidelity reports of all important decisions rendered by the federal courts in all the judicial circuits and districts of the United States.

The following preface is from vol. 5:

The present volume is a collection of the decisions of the courts of the Fourth circuit on admiralty subjects which are not included in the various Reports of this circuit already published. Some of the cases contained in this volume have previously appeared in print. The first six were selected from old numbers of Hall's Law Journal (a magazine long out of print and scarce), and a number of the remainder have appeared in the Federal Reporter. But it was nevertheless deemed advisable to insert them, so as to make the volumes of Hughes' Reports an epitome of the federal decisions of the circuit—the more so, as the facilities for prompt publication afforded by the Federal Reporter will render unnecessary the continuance of the present series. It is to be regretted that reporter's have not hitherto adopted more frequently the plan of collecting admiralty decisions into separate volumes. The practitioner who desires to make a specialty of admiralty finds the law on the subject scattered through scores of volumes of federal reports, many of them scarce and all costly. He may frequently have to purchase an entire volume for the sake of a single case. Hence, until late years the decisions of one circuit have been practically inaccessible to the bench and bar of another. The result has been a serious conflict of authorities on many points of admiralty law. The comparative cheapness of the later federal reports as compared with the old, the increase of association law libraries, and, above all,

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the foundation of the Federal Reporter will gradually make this conflict disappear. In fact it is already disappearing, and under the influences above specified the system of admiralty law is daily becoming more homogeneous and less fettered by the restrictiveness of former judges. And although in the past, a support might not have been secured for such a publication, yet considering the unexampled growth of admiralty jurisdiction and litigation in the past decade, the day is not far distant when a magazine devoted exclusively to admiralty in America will be established and generously sustained. Then the admiralty lawyer will no longer be obliged, in order to keep posted in his profession, to cumber his library with hundreds of pages of mere descriptions of patent machines, or discussions as to whether some town ought to be made to pay her bonds. The plan of reporting by subjects instead of by states or circuits is certainly the proper plan and as certainly the plan of the future. A few cases have been incorporated in this volume which, while not

strictly speaking a part of admiralty law, are so cognate thereto as to have been deemed worthy of insertion. The reporter, not wishing to make the judges responsible for his head-notes, has distinguished by an asterisk those which were prepared by himself, leaving without any distinguishing mark those prepared by the judges. Some of the cases have been annotated by additional authorities on the question decided; care being taken however not to use such notes as a means of inflicting the private opinions of the reporter on the profession. He regrets that the demands of his practice prevented him from making these notes more extensive.

#### LOWELL'S DECISIONS.

{Low.}

Judgments delivered in the federal courts for the district of Massachusetts, from 1865 to 1877. By John Lowell, district judge. Two volumes. Boston: Little, Brown & Co., 1872.

#### MCALLISTER'S CIRCUIT COURT REPORTS.

{MCAIl.}

Reports of cases in the circuit courts for the districts of California, from 1855 to 1859. By Cutler MCAllister. One volume. New York: John S. Voorhies, 1859.

#### MAC ARTHUR'S PATENT CASES.

{MacA. Pat. Cas.}

Reports of cases in the circuit and supreme courts of the District of Columbia on appeal from the commissioner of patents, with a table of the patents involved in such cases, and with references to cases wherein these patents have been subsequently litigated. By Frank MacArthur, examiner of interferences in the United States patent office. One volume. Washington, D. C.: William A. Morrison, 1885.

The following is the preface:

It is believed that these decisions of the judges on appeal, now presented to the profession in collected form, will prove an interesting addition to the literature of patent law. The decisions cover very nearly the entire period of the active life of the patent office. In the system of quasi-judicial investigation, or examination preceding the grant of the patent, which was instituted by the act of 1836, the judges of the circuit and supreme courts of the district of Columbia have acted for many years as the tribunal of last resort. According to the provisions of the original act of 1836 the applicant was given an appeal from the decision of the commissioner to a board of examiners appointed by the secretary of state for that purpose. By the act of 1839 this appellate jurisdiction was vested in the chief justice of the circuit court of the District of Columbia. This jurisdiction was extended by the act of 1842 to include the associate justices of the court. By the act of 1870 and by the Revised Statutes now in force the appeal is taken to the supreme court of the District of Columbia, sitting in general term. In their anomalous relations with an executive department, the judges do not exercise the purely judicial functions of a court of record. The judgment

is recorded in the patent office and controls the further proceedings of the commissioner, but does not preclude any person interested from renewing the contest in another forum. The very singularity of this relation, however, gives peculiar value to these decisions as the opinions of the judicial mind upon the many questions that arise in the patent office in the preliminary stages of the patent unaffected by the presumptions of law that follow the patent itself throughout the subsequent litigation. In this regard these cases furnish a line of precedents bearing upon the controversies that arise by way of bill in equity under section 4915, Rev. St., to compel the issuance of the patent. For a brief period immediately following the opinion of the attorney general of August 20, 1881, the secretary of the interior exercised concurrent jurisdiction with the court as an appellate tribunal from the commissioner of patents, by way of petition, in the nature of appeal. It may now be regarded, however, as definitely established by the decision of the supreme court of the United States in the case of *U. S. v. Butterworth* 29 O. G. 615, that the supreme court of the District of Columbia exercises an exclusive jurisdiction over the judicial actions of the commissioner. This circumstance may be thought to lend additional importance to these volumes. Many of the decisions appearing in this volume are already well known. Some of the opinions of Judge Cranch were included in an early edition of Curtis on Patents, and individual opinions have from time to time found their way into periodicals or have become familiar by dint of citation; but as a body of judicial learning, the decisions have been practically unavailable to the profession. Many of the cases were digested by Mr. Law in his valuable digest, under the name of "The Manuscript Appeal Cases;" but, as the lawyer is aware, the syllabus without the case is but an illusive guide to the law. This volume has been carefully and faithfully compiled from the original records on file in the United States patent office. It is expected that another volume of equal size will bring the Reports down to date, and it is the present intention of the author to include in the second volume the opinions of the attorneys general in patent matters, now scattered through the sixteen volumes of the Opinions of the Attorneys General. [Mr. MacArthur died shortly after the first volume was published, and the second was never issued.] The table of patents, which immediately precedes the text, will enable the reader to follow the subsequent history of the application or patent under consideration in any particular case so far as it has been involved in litigation, and has been construed, sustained, or declared invalid.

#### MCCRARY'S REPORTS.

[MCCrary.]

Cases in the circuit courts for the Eighth circuit, from 1877 to 1883. By George W. MCCrary, circuit judge. Five volumes. Chicago: Callaghan & Co. The volumes appeared at intervals from 1881 to 1884.

MCLEAN'S REPORTS. [MCLean.]

Reports of cases in the circuit courts for the Seventh circuit, from 1829 to 1855. By John McLean, circuit justice. Six volumes. Vol. 1, Cincinnati: E. Morgan & Co., 1840. Vol. 2, Columbus: Derby & Allen, 1843. Vol. 3, Cincinnati: Derby, Bradley & Co., 1847. Vols. 4–6, Cincinnati: Derby & Co., 1851–1856.

The following preface is from vol. 1:

These Reports were prepared and published at the request of gentlemen of the bar, in different parts of the Seventh circuit; and it is hoped that they will be found somewhat useful to the bench and the bar, at least within the circuit. Many of the important cases reported, were taken to the supreme court for revision, and the decisions of the circuit court in all of them were affirmed, with the exception of some two or three decrees, the principles of which were mainly affirmed, but the forms of entering the decrees were modified. These modifications are stated in the Reports. In some of the opinions of the court, there will be found a similarity to the opinions of the supreme court, on a review of the same cases. This arises from the fact, that the opinions in both courts were written by the circuit judge; who does not deem it necessary to write the opinions delivered in the circuit court, over again.

#### MASON'S REPORTS.

{Mason.}

Reports of cases in the circuit courts for the First circuit from 1816 to 1830. By William P. Mason. Five volumes. Boston: Wells & Lilly, 1819—1831.

The following advertisement is from vol. 1:

The judicial systems of the United States, and of the separate governments composing the Union, give the premise of so unlimited an increase to the number of volumes forming the library of the American lawyer, already overcrowded with English reports, that some apology to the profession seems necessary for every additional one that is presented to it. The present series of Reports was commenced at a period when the relations between this country and Great Britain had thrown into the circuit courts of the United States an unusual quantity of business, and when the construction of national law, as well as the adjustment of private rights, had given great interest and importance to their decisions. From the local situation of the First circuit, a large proportion of the most important cases fell within the jurisdiction of this court; and it was thought that a collection of them might not be altogether unacceptable to the profession, nor without some advantage to the jurisprudence of the country. Although the same reasons cannot now be offered for the continuation of these Reports, as seemed sufficient to authorize their commencement, it is hoped that those gentlemen of the bar, who have occasion to look into this volume, will not find cause to regret its appearance. It has been the only object of the present reporter to give a correct statement of the cases as they were presented, and of the decisions of the court. The arguments of counsel have been added, when the nature of the discussion appeared to call for their insertion. To those, who are acquainted with the legal character of the learned justice who presides on this circuit, it will be sufficiently apparent, that this was all that would be left for the reporter to do.

#### NEWBERRY'S ADMIRALTY REPORTS.

[Newb.]

Reports of admiralty cases in the district courts for the western lake and river districts, from 1842 to 1857. By John S. Newberry, of the Detroit bar. One volume. New York: Banks, Gould & Co.; Albany: Gould, Banks & Co., 1857.

The following is the preface:

In this volume are collected the most important admiralty decisions, of seven districts of the United States, bordering upon the great northern lakes and the Mississippi river and its tributaries, for the last ten years. The admiralty courts have been gradually growing into favor with those doing business upon these waters; and they are fast absorbing the entire mass of maritime litigation growing out of the vast shipping interest and extended commerce of our inland navigation. And up to the present time, there has been no effort made to present in an authentic form, any of the admiralty decisions of the eminent judges presiding over these courts; but the profession have been compelled to rely upon newspaper reports, and tradition, for their knowledge of the decisions that may have been rendered. The want of such a book of reports has been often felt by those practicing in the admiralty courts; and it Was to supply that want, that the reporter undertook to gather from the inland admiralty courts the materials forming the present volume. The author takes this opportunity to acknowledge with pleasure, the great obligation he is under to the judges whose decisions are herein reported, for their full and hearty co-operation and assistance in enabling him to present to the profession so complete, and as he hopes will prove, so valuable an addition to the admiralty learning of the country. He also would express his thanks to the many members of the profession, from Louisiana to Michigan, who have so kindly and promptly given so much valuable assistance in furnishing statements of facts, and memoranda of arguments upon the trial of the different cases. The publication of these Admiralty Reports will be continued, and will probably hereafter contain the decisions of other districts not reported in this volume.

#### OLCOTT'S REPORTS.

[Olcott.]

Reports of admiralty cases decided by Judge Betts in the district court for the Southern district of New York, from 1843 to 1847. By Edward E. Olcott. New York: Jacob E. Halsted, 1857.

#### PAINÉ'S REPORTS.

[Paine.]

Reports of cases in the circuit courts for the Second circuit, from 1810 to 1840. By Elijah Paine, Jr., counselor at law. Two volumes. The first was published in 1827, and the second in 1856, after the death of the editor, and under the supervision of Thomas W. Waterman, Esq. New York: E. Donaldson.

The following preface is from vol. 2:



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A large proportion of the learning of the law is contained in the Reports. To be reminded of their utility, we need only to remember, that it is to this source we must look for the interpretation, not only of statutes, but also of all the leading rules and principles which compose our system of jurisprudence. Every elementary treatise derives its sanction from the reported cases, and no judicial proceeding is conducted without constant reference to, and dependence upon them. They are as various as the conflicting and diversified interests of society, no two cases scarcely ever being in all

their features precisely alike. It is this protean character which gives them their true value, for they thus become eminently serviceable a 3 examples. Arising, as they do, from the common transactions of active life, at the period of their decision they are of more or less, practical significance; and while it must be admitted that some, in the progress of time, become obsolete, yet many, founded as they are upon the broad and everlasting foundation of universal justice, continue to be studied and cited long after the occasion which gave birth to them has been forgotten. It is not surprising, then, that this species of knowledge is sought after with avidity by the profession, and that the best and most useful libraries are those which are the most complete in all the standard reports. In a commercial community like ours, cases of deep general interest, involving many nice questions, are constantly being tried, and it cannot be doubted that the withholding an accurate report of them, would be a public misfortune.

The comparative value of reports must depend upon the importance of the questions decided in them, as well as upon the dignity, ability and learning of the court. It may be safely affirmed, that the cases in the second volume of Paine's Circuit Court Reports, are, at least equal in interest and importance, to any to be found in similar publications, while some of them are of very decided value. With regard to the court, it may be sufficient to remind the reader that they not only emanate from the circuit court of the United States, but from some of the ablest judges of that court. Of the judges we have only to enumerate the illustrious names of Chief Justice Jay, Brockholst Livingston, Wm. P. Van Ness, James M. Wayne and Smith Thompson, to be satisfied of the high character of the bench which pronounced these opinions, and of their consequent weight as authority. To Justice Thompson, however, we are chiefly indebted for the learned, clear and satisfactory decisions which are contained in this volume. [Here follows a reference concerning Mr. Justice Thompson, which will be found in the Biographical Notes.] He subsequently filled the post and discharged the duties of chief justice of the state of New York; and on the 18th of March, 1823, a vacancy having occurred on the bench of the supreme court of the United States, by the lamented death of the Hon. Brockholst Livingston, one of the associate justices and presiding judge of the circuit court in the Second circuit on the 9th of December of the same year Judge Thompson was appointed his successor. It was while he served in the latter capacity that the opinions contained in the following pages were pronounced. They were given by Judge Thompson when he had attained the fullest maturity of judgment, and after many years rich in experience as well as in study; they ought therefore, to possess, and doubtless do possess, a superior value. This volume has been compiled from manuscript cases which the late Hon. Elijah Paine, Jr., had collected, and partly arranged with a view to publication. The design of Judge Paine was, that they should form a second volume in the series of his Circuit Court Reports, and he had selected them with care for that purpose. They begin in 1827 and continue to 1840, thus

commencing where the cases in the first volume of Paine's Circuit Court Reports leave off, and extending over a period of thirteen subsequent years. They were all decided in the Second circuit with one exception—a case relative to the right of British creditors to recover claims which subsisted prior to the American Revolution, tried in the Virginia circuit; and in which the general principles of international obligation which ought to govern in such cases, are discussed with great learning and ability by Chief Justice Jay. As this case had been marked for publication by Judge Paine, and was in itself of considerable interest and importance, it was not thought advisable to omit it; although it did not come within the original design and scope of the work, which was simply to report cases tried in the Second circuit. The biographical sketch of the late Judge Paine [see Appendix], prepared by his brother, Dr. Martyn Paine, a physician of eminence of this city, will command attention for the feeling, yet truthful tribute of affectionate admiration and regard it pays to the memory of one whom, while living, the bar of New York delighted to honor, and the recollection of whose learning and virtues, now that he is no more, will long be preserved. The duties of the present editor may be comprised as follows: A careful and thorough revision of the manuscript; the preparation of an outline or statement of each case, except when rendered unnecessary by minuteness and circumstantiality in the opinion; ample and comprehensive, and yet concise head notes; a complete table of cases; and a very full index. Both volumes have also been annotated with a view to introduce the more recent cases. It is hoped that the notes, which are quite extensive, will prove useful, and that they will enhance the practical value of the work.

#### PETERS' ADMIRALTY DECISIONS.

{Pet Adm.}

Admiralty decisions in the district court for Pennsylvania. By the Honorable Richard Peters, with some cases decided by Judge Hopkinson, from 1780 to 1806, and a few cases from other districts. The appendix contains the laws of Olcron, Wisbuy, and the Hanse Towns, with the marine ordinances of Louis XIV., a Treatise on Admiralty, and the laws of the United States relative to mariners. Two volumes. Sometimes printed as one. Philadelphia: William P. Farrand, 1807.

#### PETERS' CIRCUIT COURT REPORTS.

{Pet. C. C}

Reports of cases in the circuit courts for the Third circuit, from 1803 to 1818. By Richard Peters, Jr., counselor at law. One volume. Philadelphia: William Fry, 1819. It covers part of the period covered by Washington's Reports, but no cases are duplicated.

The following is the advertisement:

The public are exclusively indebted to Mr. Justice Washington for the reports contained in this volume. They have been compiled from his note books, in which they were entered, with no view to their publication, but solely for his private reference. They will

be found to contain all the essential parts of a full report of the cases, and a faithful statement of the opinion of the court, on the points intended to be decided. It would have comported more with the estimate the editor has formed of the duties executed by him, to have omitted his name in the title page, but in compliance with the wishes of Judge Washington, and as this volume forms the first, of a series of Reports he is about to publish, of decisions in the same court, and in which his agency will be more extensive, the present form has been adopted.

This volume contains all the cases decided in the circuit court, for the district of New Jersey, since Mr. Justice “Washington presided in that court, and as late as April term, 1818; and all the decisions in the Pennsylvania district from 1815, to the division of the district, in 1818. The publication of the earlier decisions of the court, in the Pennsylvania district, has been undertaken by a gentleman, whose skill and ability for the performance of the task, is universally admitted, and by whose liberal relinquishment of the situation, in favour of the editor of this volume, he has become the reporter of the decisions of the circuit court of the United States, for the Third circuit.

#### ROBB'S PATENT CASES.

[Robb, Pat. Cas.]

A collection of patent cases decided in the supreme and circuit courts from 1789 to 1850, with notes. By James B. Robb, counselor at law. Two volumes. Boston: Little, Brown & Co., 1854.

The following preface is from vol. 1:

The collection of cases embraced in these two volumes, contain all of the patent cases decided in the circuit courts of the United States and reported prior to the first of January, 1850; and all of the cases decided in the supreme court of the United States to the same period. They are arranged as nearly as may be in chronological order; numbering one hundred and twenty-four cases, selected from sixty volumes of Reports, namely: Washington, Brockenboro', Peters, McLean, Paine, Gilpin, Gallison, Mason, Wallace, Sumner, Baldwin, Story, and Woodbury and Minot, of the Circuit Court Reports;—and Cranch, Wheaton, Peters, and Howard, of the Supreme Court Reports, thus embracing all of the decisions illustrating the principles of the patent laws of the United States. A few cases have been decided by the state courts, involving, incidentally, questions arising under the patent laws, which have been omitted, as not affecting the principles or doctrines settled by the United States courts; exclusive jurisdiction of these subjects, in the administration of the patent laws, being vested in the United States circuit and supreme courts. The decisions upon the earlier statutes, in all cases which have been modified by subsequent legislation, have been appropriately noted, with reference to the statutes, a collection of which will be found in the appendix, with marginal notes indicating the alterations and additional provisions. The index embraces all of the topics discussed and decided by these courts, and is so full as to greatly abridge the labor of search for the requisite authority. It is proposed to continue this collection by the addition, from time to time, of volumes embracing the cases decided subsequent to the first of January, 1850, if the facilities afforded hereby shall be deemed sufficient to warrant it. It is much to be regretted that the numerous decisions of his honor, Judge Sprague, in the circuit court for the district of Massachusetts, have not been reported. Their luminous exposition of the principles of the patent laws, in their application to the increasing and ever-varying

mechanical developments of the laws of phenomena, in their progress from obvious to refined and intangible distinctions, which characterize the cases which he has been called upon to decide, would not only have enhanced the value of these volumes, but would have greatly enriched the science of mechanical jurisprudence. Such of these decisions, however, as may have been preserved, will be collected and embraced in the subsequent volumes of these Reports.

## SAWYER'S REPORTS.

[Sawy.]

Reports of cases in the circuit and district courts for the Ninth circuit, from 1870 to 1884. By L. S. B. Sawyer. Fourteen volumes. San Francisco: A. L. Bancroft & Co., and the Bancroft-Whitney Co., 1873—1891.

The following preface is from vol. 1:

The judges of the circuit and district courts of the United States for the Ninth circuit, yielding to a very generally expressed desire of the legal profession in the circuit, that their decisions should be reported in a regular series, have authorized the undersigned to report such of the numerous decisions rendered as may be supposed to be of a somewhat general and permanent interest to the profession. The series will commence with the reorganization of the circuit courts, by the appointment of circuit judges, under the act of congress of April 10th, 1869. The extension of the jurisdiction of the national courts by recent legislation, and the appointment of circuit judges, who will be at all times engaged in the discharge of their duties on the circuit, has tendered to largely increase the business of these courts. Many legal propositions of great interest and importance are discussed in the decisions now being rendered in the United States circuit and district courts, and no circuit is likely to present a greater number of new and important questions of lasting interest than the Ninth. The Reports now commenced will embrace cases at law, civil and criminal; cases in equity, admiralty, and bankruptcy; and special cases arising under acts of congress. The circuit court for the district of California, in addition to its ordinary jurisdiction, has, also, the new and final appellate jurisdiction from the United States consular and ministerial courts in China and Japan, in the exercise of which novel and interesting questions for adjudication are likely to arise. This volume contains the first case brought to the circuit court from the consular court at Canton, in the Empire of China. Should the demand for the present volume indicate that it supplies a want to the profession, the series will be continued.

The following note is taken from vol. 4, p. 455:

The following cases were decided by Mr. Justice Field, in the circuit court, before the passage of the act of 1869, providing for the appointment of circuit judges. Those relating to the title to real property are of special interest to the profession in California. The other cases are believed to be of general interest. Most of them have been often cited from the

manuscript by the California bar, and a desire has been expressed that they should be reported. The charges of the court, in the few instances in which they are given, were delivered in writing, after argument, upon the points of law involved. The questions received as thorough consideration as is given to cases tried without a jury.

SPEAGUE'S DECISIONS.

{Spr.}

Decisions by Judge Sprague in maritime, admiralty, and prize causes in the district court for Massachusetts, from 1841 to 1864. Two volumes. Vol. 1 is edited by F. E. Parker; vol. 2, by John Lathrop. Vol. 1 was published in 1861 by T. & J. W. Johnson & Co.,

Philadelphia, The second volume was published in 1868 by Little, Brown & Co., Boston.

The following preface is from vol. 1:

A small part only, of the decisions made by Judge Sprague, have ever been reported. Owing to his inability to use his eyes in reading or writing, his opinions were delivered orally. A considerable number of the opinions, embraced in this volume, especially the more elaborate ones, were originally written out from his dictation, and some of them are now published for the first time. The others were in the first instance reported by the counsel, and published in the Law Reporter, or elsewhere. All of them have been revised by Judge Sprague, and now appear with his sanction. In this revision, the original reports have, sometimes, been curtailed, by omitting the analysis and comparison of evidence, which, however important to the parties in the cause, are of no interest to the professional reader, who desires only to know what were the facts found by the court, upon which the law was pronounced. The head-notes were prepared by the judge; as a general rule, they contain only the points decided, but in some instances embrace legal propositions which were the foundation of the reasoning of the court. An occasional foot-note has been added, where the authorities subsequent to the decisions seemed to demand it; and these, and the references to cases, have been made by me as editor. In collecting the reported cases, I have had the valuable assistance of Mr. Charles Francis Adams, Jr., of the Boston bar, by whom most of that labor was performed.

The following preface is from vol. 2:

The first volume of Sprague's Decisions was published in 1861. In the early part of 1865, Judge Sprague retired from the bench. This volume includes the most important of the decisions rendered by him subsequently to the publication of the first volume of his decisions, and some of a prior date. All of them now appear with the sanction of Judge Sprague. The prize cases were prepared for publication by the Hon. Richard H. Dana, Jr. The foot-notes were made by me as editor, and the work has been published under my supervision. [Signed] John Lathrop.

#### STORY'S REPORTS.

[Story.]

Reports of cases in the circuit courts for the First circuit, from 1839 to 1845. By William W. Story. Three volumes. Boston: Charles C. Little and James Brown, 1842—1855.

The following preface is from vol. 3:

This volume contains the last opinions ever pronounced by Mr. Justice Story, and concludes the grateful labors of the present reporter. It will be found to contain no indications of failure of powers, but to give added proof of that comprehensive grasp of intellect, singular acuteness in analysis, luminous insight, and breadth of learning, which in him were so harmoniously blended, and directed to the great end of morals, justice and humanity. While the last opinion in this book was yet undelivered, Mr. Justice Story, after a short



and violent illness, died on the 10th day of September, 1845, at the age of 66. [Here follows an account of the proceedings of the bar upon the death of Justice Story, which will be found under "Story" in the Biographical Notes.]

#### SUMNER'S REPORTS.

[Sumn.]

Reports of cases in the circuit court for the First circuit, from 1829 to 1839, by Hon. Charles Sumner. Three volumes. The second edition was published in 1851 by Charles C. Little and James Brown, Boston.

#### TANEY'S CIRCUIT COURT REPORTS.

[Taney.]

Reports of cases in the circuit court for the district of Maryland, decided by Roger Brooke Taney, chief justice of the supreme court, from 1836 to 1861. Reported by James Maron Campbell, of the Baltimore bar. One volume. Philadelphia: Kay & Bro., 1871.

The following notice is from page iii.:

As circumstances prevented the publication of this volume during the lifetime of the compiler, the laborious and important duty of reading the proof necessarily devolved upon others. In this emergency, Mr. Brightly, of the Philadelphia bar, most kindly offered his services. The family of the late chief justice desire to express their appreciation of the motives which prompted him to this "labor of love," while they feel assured they may unite with the profession in the opinion, "Nil tangit quod non œq̄nīparat."

#### VAN NESS' PRIZE CASES.

[Van Ness.]

Reports of two prize cases in the district court for the New York district. By the Honorable William P. Van Ness, district judge. New York: Gould, Banks & Gould, 1814.

The following is the preface:

The first of the following opinions was published in the National Advocate on the 3d January last. The amount of property in controversy, the nature of the principles which it involved, and the ability with which they had been examined and illustrated by the judge, gave to this case a novelty and importance that attracted very general attention. The publishers were so frequently applied to, by their customers and others, for copies of this opinion, without being able to supply the demand, that they at length resolved to reprint it in the form of a pamphlet. While it was in the press, they were informed that Judge Van Ness had decided another interesting question of prize law; and on application to him, received the second of the following opinions. This, in point of time, was first delivered; but as the printing of the other was commenced before it was obtained, the order could not conveniently be changed. This will explain also some allusions in the Case of Beswicke & Son, to questions decided in the Case of Richardson.

WALLACE'S NOTES OF DECISIONS.

Manuscript reports of cases in the Third circuit. See Wall. Sr.

WALLACE'S REPORTS.

{Wall. Sr.}

Reports of cases in the circuit court for the Third circuit in 1801. By John B. Wallace. One volume. The second edition was published in 1838, with two additional cases. This has been reprinted by W. J. Gilbert, St. Louis, 1871.

The following is the preface to the first edition:

By those who are conversant with subjects of municipal jurisprudence, the design of publishing memorials of adjudged cases in the circuit court of the United States for the Third circuit, will, no doubt, be received with approbation. Questions on the constitution and laws of the United States, on general commercial law, and the law of nations, must furnish a series of decisions highly valuable to every juridical officer, and of great importance to the community; and such are the questions which will principally occupy the attention of this court. It is only for the execution of the task, that I feel anxiety. I am no ways satisfied, that this first essay will be thought to augur favorably of the reporter. It may serve, however, to soften the rigor of judgment, to know that it has been made under considerable disadvantages which will not attend upon future efforts; and if, in these circumstances, the present publication should meet with patronage, I shall feel encouraged to proceed, in the hope of arriving much nearer to the point of merit. The state of each case will, I think, be found to be accurately given; and the opinion of the court, generally, in the words in which it was delivered; with only such slight departures in mere phraseology, as to create no variation in the sense: It does not come within the power of any one but the stenographer, to exhibit a copy of an oral discourse that shall, in every particular, comport with the original. Where the opinions were written, I have been favored by the judges with leave to take copies. As to the arguments of counsel, from their nature, they require much compression: where several are concerned; the arguments of all on each side must be thrown together. In doing this, much of the spirit, and many of the beauties of an eloquent debate will be lost. I have to lament, that it is not within the compass of such compilations to do justice to the great abilities which are conspicuous at the bar of the court in which these cases were decided. All that I can profess to have given on this head, is a correct state of the points made by the counsel, and the substance of the arguments on each side. It may be thought that I sometimes give to the arguments a cast rather more forensic than is usual in the modern style of reporting; and that I too frequently introduce into the principal report, colloquial and incidental matter. I am not conscious, however, of having indulged this too far; and where I have yielded to it, I promise myself, it will be found to answer some useful purpose; and to present, if not so much of symmetry, at least a more natural exhibition of the case. I have only to add, that in the outset of a great national judicature, it appeared to me proper, not only to record the more solemn sentences of the law, but also to preserve rules of practice,

and the course of proceeding. In courts long established, and where the practical forms and principles are well understood, or may be traced to digested systems, the preservation of these incidental cases of a discretionary kind, would not be so important. But in this court, which must, in some measure, originate a code of practice, points of that nature, when settled, become of considerable consequence.

Should my design be approved, I purpose to continue a report of the adjudged cases in the Third circuit.

The following is the preface to the second edition:

Frequent orders, which we have not been able to supply, for these Reports of the late Mr. Wallace, published many years ago, have induced a reprint of them; to which are added two new cases, decided in the same court, and hitherto unpublished. The volume appeared originally in a pamphlet number, and was intended to have been continued. The court itself, however, was of short duration. Its history, brief and instructive, has thus been beautifully given to us: "It was established at the close of the second administration of our government; and although this particular measure was deemed by wise men on all sides, and is still cited by many of them as the happiest organization of the federal judiciary, yet, having grown up amid the contentions of party, it was not spared by that which spares nothing. In a year after its enactment, the law which erected the court was repealed; and judges who had received their offices during good behavior, were deprived of their offices without the imputation of a fault." Much time and labor, it is known, were bestowed by Mr. Wallace, in recording the decisions of the court which succeeded; and we have lamented, in common with others, that the profession never realized the expectation long had, of seeing the decisions of Judge Washington thus favorably presented to the public. The publication, though actually begun, was delayed, and the manuscripts of that excellent judge, since printed, give ideas of the cases in general so correct, that considering the size of the work, and that it is still easily to be found, a continuation of the work of the original reporter is not undertaken.

The following reference to this work of Mr. Wallace is taken from Wallace's Reports, pp. 340-311, footnote:

It was their author's intention [John Bradford Wallace, author of Wallace, Sen., Reports] to publish the decisions of Judge Washington [associate justice of the United States supreme court], and there were recently in the possession of his son, the late Horace B. Wallace, Esq., of Philadelphia, whose testamentary executor purposes to present them to the Franklin Library [now known as the "Philadelphia Library"] of that city, three large volumes richly bound in blue Turkey morocco of the Reporter's Notes, from 1801 to 1816, of cases in the Third circuit, of which the bench was then occupied by Judges Washington and Peters. They cover a part of the same term embraced by the work called "Washington's Circuit Court Reports;" "a book," says Mr. Marvin (Leg. Bibl. 720), "which

was printed from Judge Washington's Notes, never originally designed for the press; and which while accurate, so far as it goes, is but an imperfect monument to the judicial powers of that upright man. It was a matter of deep regret with Judge Washington, as it was with the profession of that day generally, and especially with Mr. Wallace's friends, that the decision of the Third circuit should not have been given to the bar by their original reporter. The work would have been an enduring monument alike of his fine intellectual powers and accomplishments, and of Judge Washington's first-rate capacities as a judge upon the circuit."

These Notes of Decisions by Wallace have been examined. They are contained in three manuscript folio volumes, in the Philadelphia

Library. The first is a folio of trials, containing arguments of counsel, time of adjournment of court, remarks of Justice Washington of points of law, objections to evidence and witnesses, etc. The reporter seems to have watched the trials very closely, and to have taken minute and accurate notes of the proceedings. This folio contains no opinions. The second is a folio of hearings on motions and rules, with the points of counsel in reference thereto. The eases are the same as in the folio of trials. There are no opinions in the folio of rules, but the arguments of counsel are given exhaustively. The third is a folio of opinions, containing facts and opinions in federal cases, with a few state (Pennsylvania) cases added. Pencil notes on the margin seem to indicate that these cases have been resorted to for publication (probably for Washington's Circuit Court Reports, to certain volumes of which these marginal notes often refer, and with which the cases in this folio compare very closely). This folio, unlike the others, seems to have been prepared for the press, though the pages are not numbered, and seem to have been thrown together without order after copying the manuscript. The cases in all the folios are the same, and all the federal cases are contained in Washington's Circuit Court Reports.

#### WALLACE, JR.'S REPORTS.

{Wall. Jr.}

Cases in the circuit court for the Third circuit, from 1842 to 1862. Reported by John William Wallace. Three volumes. Philadelphia: Vol. 1, Walker, 1849; vols. 2 and 3, T. & J. W. Johnson & Co., 1854–1871.

#### WARE'S REPORTS.

{Ware.}

Cases decided by Hon. Ashur Ware in the district court for the district of Maine. Vol. 1 (1822–1829), Portland: Colman & Chisholm, 1839; 2d Ed., by Edward H. Daveis (with additional cases, 1854–1855), Boston: Little, Brown & Co., 1856; vol. 2 (1839–1849), by Daveis, and sometimes cited as Daveis' Reports, Portland, 1849; 2d Ed., Portland: Loring, Short & Harmon, 1873. Vol. 2 contains some of Judge Ware's decisions in the circuit court. Vol. 3 (1853–1866), by George P. Emery, Portland: Loring, Short & Harmon, 1874.

The following preface is from vol. 1, 2d Ed.:

The first edition of these Reports has been out of print for several years. In preparing the second, a few notes have been added, and some additional cases, decided since the publication of Daveis' Reports. The corrections of typographical errors in the first edition, wherever the sense is affected by them, have been made under the direction of Judge Ware.

The following preface is from vol. 2, first edition:

This volume contains a selection of cases in the district court, principally in admiralty, decided by Judge Ware since the publication of Ware's Reports, and also some opinions

pronounced by him in cases decided in the circuit court. The Note upon the Admiralty Jurisdiction [Case No. 6,914], was written out at the request of the reporter, while the printing was in progress. The decisions in bankruptcy, which formed the great mass of the business in the district court, for some years after the act went into operation, have been omitted, excepting a few cases presenting points of more general application. The rubrics have been prepared under direction of the judge, and are generally given as made by him at the time the cases were decided.

The following preface is from vol. 2, 2d Ed.:

This volume is a reprint of Daveis' Reports, published in 1849. Its present title has been substituted for that of the former edition for sake of uniformity, it being the purpose of the publishers to issue a third volume of Judge Ware's Decisions, which have never been published in a form for preservation.

The following preface is from vol. 3:

A short time prior to the death of Judge Ware, the materials constituting the principal contents of this volume were placed in the hands of the reporter, for the purpose of preparing the same for publication in a form suitable for preservation. Some of the more important cases, especially those decided in Massachusetts district during the temporary illness of Judge Sprague, have been heretofore published in periodicals of an ephemeral character, but the major part of them has never appeared in print in any form. In preparing this, the third and last volume of Ware's Reports, the reporter did not have the benefit of the supervision of the author of these "decisions," which will account for (especially among those familiar with Judge Ware's chirography) defects which otherwise would have been avoided. But however defective the manner of executing the work, the text of the volume will be found as perfect as was practicable to make it during the process of printing; and although errors in the citations of authorities may be frequently noticed, especially of statutes, those can be readily overcome by referring to the "Errata," which has been prepared with care since the body of the work went to press. No apology surely will be required for preserving in an enduring form the eulogiums found in the appendix, much less for giving to the public the latest opinions of him of whose prior ones the eminent judge who succeeded their author so recently said: "I believe no treatises or reports are now extant which are at this moment more useful to the profession, or more frequently acknowledged as authority, or which can afford more knowledge and information, than these reports."

{Signed}

Geo. P. Emery.

The following advertisement is from vol. 3:

This volume contains the latest opinions of Judge Ware, and is entirely new. It is a sequel to the first and second volumes (the latter originally entitled "Daveis' Reports")

issued in his lifetime. All together give to the public the benefit of his judicial labors for more than forty years. Congress having failed to “confer on him the advantages of the retiracy provisions now provided for judges of the federal courts, this publication appeals with all the more force to the patronage of a profession not wont to ignore the service of a public benefactor.



WASHINGTON'S CIRCUIT COURT REPORTS.

{Wash. C. C}

Reports of cases in the circuit court for the Third circuit from 1803 to 1827. Reported by Richard Peters, Jr. Four volumes. Philadelphia: P. H. Nicklin and P. Johnson. Vol. 4 was published in 1829. A second edition was published in 1853 by T. & J. W. Johnson, Philadelphia.

The following advertisement is from vol. 1:

When, in 1819, the editor published "Reports of Cases Determined in the Circuit Court of the United States, for the Third Circuit," it was his intention to proceed with a work which would have placed in the hands of the profession, the decisions of that court from 1815 to the present period. This purpose has been suspended, in consequence of an impression, derived from the limited sale of the volume, that the publication of the earlier cases, should have preceded those which were then printed. That these cases would have appeared long since, was an expectation entertained and expressed at the period referred to. It was understood, that they had been prepared for the press, by a professional gentleman, who had devoted much time and attention to the trust; and who intended to complete the work within a short time. [This reference is to Wallace's Notes of Decisions; for an account of them see Wall. Sr.] These expectations have been disappointed; and in accordance with the wishes of Judge Washington, these Reports are now published; this volume being the first of a series, which will contain all cases decided in the Third circuit, during the time that distinguished and learned gentleman has presided in the court. The cases are taken from the manuscripts of the judge, and they will be found to contain all the matters essential to be known, and a full and accurate statement of the opinions of the court, in every case. It may be claimed with confidence, that this work will contain a body of law, of the highest interest to the community. The jurisdiction of the circuit court of the United States, extends to international and commercial questions, of the greatest, and of the most general importance: its particular province to examine and decide upon revenue, and questions arising under the patent laws; and the final determination by the court, of the many principles by which the land titles of a very considerable portion of Pennsylvania are regulated—these circumstances, together with the various and changing relations of the United States, between 1803 and 1815; our neutrality; our belligerent and peaceful positions; gave rise to very many of the most intricate and important legal investigations. The volume now published will be immediately followed by others, and the work will be completed as early as possible.

The following advertisement is from vol. 3:

The editor, in presenting this volume to the profession, begs leave to state, that, contrary to his expectations, the work cannot be comprehended in less than four volumes. This is the necessary result of the abundance and importance of the matter, contained in

the manuscripts of Mr. Justice Washington; and of the length of the judicial period, during which he has, so honourably and so ably, presided in the circuit court of the United States, for the Third circuit. In this volume, are, the decisions of Judge Washington in the circuit court of Pennsylvania, from April term, 1811, to April term, 1814, inclusive; and from April term, 1818, to October term, 1819, also inclusive; and the cases decided in the circuit court of New Jersey from April, 1818, to October, 1820. The intervening cases are contained in 1 Peters's Reports, published in 1819. It is not intended to proceed further with the last-mentioned work; but to complete the publication of the remaining cases decided in Pennsylvania and New-Jersey, in a fourth volume to these Reports; which it is expected will be printed in 1828. The three volumes of these Reports, with First Peters's Reports, and the succeeding volume of the present work, will exhibit a series of decisions, commencing in 1803, and ending in 1828. In no portion of the political existence of the United States, have cases of such novelty, interest, and high importance to the community, been presented before the courts of the United States, for judicial investigation and decision; and before the circuit court, for the Third circuit, most of the questions of law arising out of these cases, have been first examined and adjudged.

The following preface is from vol. 4:

The editor has now completed the pledge given to the profession and to the public, on the commencement of this work. The present volume contains the decisions of the circuit court of the United States for the Third circuit, comprising the districts of Pennsylvania and New Jersey, from April term, 1820, to October term, 1827, inclusive; with some cases decided in 1818 and 1819, omitted in the third volume of this work; and completing the series of cases adjudged in that court from 1803. Few of the decisions of the court remain to be published. By the liberality of Messrs. Nicklin and Johnson, this volume has been extended to an unusual size, for the purpose of completing the series, as far as practicable; and it will be found to contain a body of most useful and highly valuable law learning, and an equal, if not a greater number of interesting cases, than any volume of reports heretofore published in the United States. In the conclusion of his labours, the editor claims to avail himself of the occasion to express his high sense of the judicial talents, legal discrimination, laborious and persevering industry, and exalted virtues of the learned and venerable judge, from whose manuscripts, exclusively, this work has been published. In this record of his feelings, he proudly testifies his gratitude for the affectionate friendship, and for the many manifestations of kindness and regard he has received from Mr. Justice Washington.

WOODBURY AND MINOT'S REPORTS.

{Woodb. & M.]

YesWeScan: The FEDERAL CASES

Reports of cases in the circuit court for the First circuit from 1845 to 1847. By Charles L. Woodbury and George Minot. Three volumes. Boston: Charles C. Little and James Brown, 1847-1852.

WOODS' REPORTS.

[Woods.]

Cases in the circuit courts for the Fifth circuit, from 1870 to 1882. Reported by Hon. William B. Woods, circuit judge. Four volumes. Chicago: Callaghan & Co., 1875—1883.

WOOLWORTH'S CIRCUIT COURT REPORTS.

[Woolw.]

Cases in the circuit courts for the Eighth circuit, from 1863 to 1869, being the decisions of the Honorable Samuel F. Miller, associate justice of the supreme court. Reported by James M. Woolworth, counselor at law. One volume. Chicago: Callaghan & Cockcroft, 1870.

RESOLUTIONS  
AND OTHER  
PROCEEDINGS UPON THE RETIREMENT OF FEDERAL JUDGES.  
BETTS, SAMUEL ROSSITER.

[For brief biographical notice, see 30 Fed. Cas. 1363.]

The following extract is reprinted from 2 Ben. 559:

Died at New Haven, Nov. 3.1868, Samuel Rossiter Betts, for many years judge of the district court of the United States for the southern district of New York.

The following were the proceedings in that court on the announcement of his death on the following day, Judge Blatchford, with Judge Benedict, of the eastern district, being on the bench:

Hon. Samuel G. Courtney, district attorney of the United States, moved the adjournment of the court as follows: "May it please your honors, I rise to perform the sad duty of announcing formally to the court the death of Hon. Samuel R. Betts, for nearly forty-five years the judge of the United States district court in this district. He died on Monday evening at New Haven, whither he had removed after his resignation of his seat upon the bench. My acquaintance with him was of recent date, but during the time that I have been officially connected with this court I have been brought into intimate relations with him, and I always found him courteous, kind, and urbane in every respect. To the older members of the bar his history is better known than to me, and I shall leave it to them to say what they have to say of his character and merits. I will only say that he died full of years and full of honors, and out of respect to his memory I move that this court do now adjourn."

Mr. E. C. Benedict rose to second the motion, and said: "I feel that it is my painful duty to say a few words in seconding this motion, because of my long acquaintance with Judge Betts, and my long practice in this court. I had known him since 1823, when I was a student in his office, and his family I had known before that time. I have practiced almost uninterruptedly in this court since his appointment, in 1827, by Mr. Adams, who, together with Mr. Clay, signed his commission. He came to this city from the country, where he had been eminent at the bar, and for some years circuit judge. He came, therefore, with great familiarity with the legal questions which occupy the courts of common law, but with little acquaintance with those with which an admiralty court must deal. When he came here there was almost no business in the court. It did not then sit a week where now it sits a month. Thus he had leisure to familiarize himself with the law of admiralty, and he soon became one of the most learned judges in that branch of the law. As time went on the business of the court increased, and his experience in admiralty became far more extended than that of any other judge that ever sat on the bench. He, more than any other man, formed the admiralty system of the United States. When he came to the

bench the British view of the jurisdiction of the admiralty prevailed. He devoted himself to that branch of the law in the spirit which belonged to it of old, and which has since been adopted by the jurists and courts of this country, and his views have prevailed everywhere, though at first they were a novelty. His decisions were always characterized by acuteness, learning, and research. If they had been carefully reported they would have built up for him a reputation which would have been like that which the chancery decisions of this state gave Chancellor Kent, or which the English admiralty decisions gave to Lord Stowell. But in those days the newspapers were not, as they are now, volumes of reports, and Judge Betts always seemed not entirely satisfied with the form of his decisions, and was reluctant to publish them till he had given them a more perfect finish: and though I was appointed reporter of the court many years ago, I did not succeed in getting together matter enough even for a pamphlet, before his greatly increased labors by the bankrupt act of 1840 prevented his giving any attention to it, and the idea was abandoned till its importance was destroyed by reports of other courts. Judge Betts was a man of urbanity and kindness to all who practiced before him. All who practiced in his court, young or old, always felt that they had had full opportunity to be heard, and that they had been treated with uniform kindness and courtesy, —an excellent quality in a judge. We can hardly realize, in these days, when changes are so frequent upon the bench, what it was to have a judge upon the bench for forty years, as he was. He reached great age, and gave an example to us all of the results of a quiet and uniform and industrious life of moral and domestic virtue. His death calls upon us all to prepare for that end of life to which we must all come, and which few of us can expect to have deferred as long as it was in his case.”

Judge Beebe then spoke as follows: “ Perhaps I, too, should say a word on the occasion which has called so many members of the bar together. When a boy I commenced a student’s life in the office of my friend who has just sat down, and soon gained familiarity with the business in that office, and therefore with the business of this court. And in my practice since that time I have experienced many kindnesses and often indulgence at the hands of Judge Betts. When I was a boy I always received from him treatment which gave me courage and hope, and during my long acquaintance with him there has been no jar in our friendship. I have always had the utmost respect and affection for him, and we all reverence his memory now that he has gone. Few men reached the years which he reached or the honors which he attained. He was a man of extraordinary industry, who never allowed any matter to pass before him without careful consideration, and a great many hours and years of labor were spent in elaboration, which he conscientiously believed to be his duty, for he was a man instant in season and out of season in the performance of duty. He has passed away, and it is due to us who remain to pay respect to

his memory, and I again second the motion that the court adjourn.”

Judge Benedict said: “My own relations with Judge Betts were perhaps somewhat different from those of any one present. I first began to know him as a student; my first cause I tried before him; I practiced before him as long as I continued at the bar, and when I took my seat upon the bench I was in some sense associated with him as judge. To his kindness to me as a lad, to his patience with me while at the bar, and to his uniform kindness to me while on the bench, I desire to bear my testimony, and the motion seems to me eminently proper.”

Judge Blatchford said: “I can add but little to what has been said. Sitting in this place as the successor of Judge Betts. and brought into intimate familiarity as I am daily with his decisions in all branches of the law administered here, I cannot but express the obligations which both the bench and the bar are under to this distinguished judge for the light which he has shed upon the path of this court. My acquaintance with him began some twenty years ago, and my relations with him have been intimate since then. He was always kind, encouraging, faithful, industrious, and conscientious in the discharge of every judicial duty. Of one branch of his judicial career I can speak better, perhaps, than any other person. I refer to the great services which he rendered to his country and to the law, in the prize cases which came before the court during the late Rebellion. In preparing his decisions in those cases for the press, as I did, I was amazed at the industry with which the judge, from the seventy-eighth to the eighty-second year of his life, went through the mass of papers in those cases, going over the evidence in each, digesting it and spreading it out in an opinion, so that the volume now stands for the information of all who have need of information on any branch of that subject. As it was the first great war that the country had waged, he was, as it were, treading a new path, using principles which had been already discussed, but adapting them to entirely new circumstances. And it was done with a clearness and a care which made the work a fitting close to his career. He has added to the reputation of the country by it, and I think the country owes a greater debt to him than to any other man in this branch of the law. I cordially accede to the request of the bar, and, direct the court to stand adjourned till Friday, and this motion to be entered on the minutes.”

#### BOYLE, JOHN.

[For brief biographical notice, see 30 Fed. Cas. 1364.]

The following obituary notice is reprinted from 1 McLean, 558:

Judge Boyle, like almost all the distinguished men of the west, and indeed of the east, was indebted for the eminence he acquired to his own exertions. Having no influential friends in early life, and his parents being poor, he was thrown upon the native vigor of his own mind; and the history of his life affords that fine development of mind and of character which justly excites universal admiration. At the bar he soon attained a lucra-

tive business and an enviable reputation. Without his solicitation, and scarcely with his consent, in 1802 he was taken up by the people and elected to congress. In that body he became highly respected for his intelligence and uncompromising integrity. He attracted the attention and confidence of Mr. Jefferson and Mr. Madison, in a very high degree; the latter of whom, in 1809, unsolicited, appointed him governor of the Illinois territory. This office was much sought after and desired, but it was not suited to the taste of Judge Boyle, and he eventually declined its acceptance. The appointment was then conferred on Ninian Edwards, chief justice of the court of appeals of Kentucky. To the station thus made vacant, Judge Boyle was appointed. The important office of chief justice he filled with great ability for many years, until he was appointed district judge of the United States for Kentucky, on the promotion of Judge Trimble to the supreme bench of the Union. To this station he carried great experience and high talent; and he continued to discharge its duties most faithfully and ably until his lamented death, which took place in the winter of 1835. Judge Boyle's opinions, published in the Kentucky Reports, show a mind deeply imbued with the science of his profession. They are learned, and able, and just. They place his character for high intelligence and learning on an imperishable basis. Few, if any, of the sons of his adopted state have left to her a richer legacy. They emit and will continue to emit, in all time to come, a clear and a steady light on the jurisprudence of the state, and on rights public and private. Of such a legacy the state may well be proud. It was the result of patient and laborious research, and of high intellectual endowment.

To appreciate Judge Boyle's personal qualities, it was necessary to know him intimately. He was modest without affectation. His manners were simple and unobtrusive. In conversation he was not ambitious to shine, but, when roused to the support of his own views, it was difficult to meet him, and still more difficult to overcome him. He seemed in his discussions to have no object but truth, and he always yielded to conviction. He was above that pride of opinion which is the characteristic of a narrow mind. Few gentlemen of the profession equaled Judge Boyle in general legal acquirement, and he was surpassed by none in a knowledge of the principles of the common law. To the study of the common law he was attached. He entered into the philosophy of the system, and considered it as a noble monument of the wisdom of our ancestors. Judge Boyle's mind was acute and discriminating. He saw principles clearly, and applied them judiciously and powerfully. He was sometimes inclined to draw nice distinctions and to fall into metaphysical abstractions but a sound and comprehensive understanding, and a thorough knowledge of the subjects he investigated, conducted him to a safe and just conclusion. The judgment of few men in any age formed a more unerring standard than his. No one associated with him in the discharge of judicial duties could differ with him in opinion, without being solicitous as to the correctness of his own views: The writer of this was intimately associated with this eminent man, in the latter years of his most useful life; and he learned to appreciate the

high qualities of his head and heart. Many an instructing and interesting hour was spent in his society, which can never be forgotten. And in this intercourse, on more than one occasion, he remarked, that he had no ambition to gratify, and cherished no wish, beyond a sincere desire faithfully to discharge his public duties. A mind of purer aspirations, and of nobler aims, never graced a bench.

CAMPBELL, JOHN WILSON.

{For brief biographical notice, see 30 Fed. Cas. 1366.

The following obituary note is reprinted from 1 McLean, 557:

In the history of this excellent man, another Instance is found where a high reputation was attained by unaided personal efforts. The struggle began early, and it terminated only at the close of his life. Judge Campbell was a good scholar, and possessed general knowledge. At the bar he was highly respectable; and in the legislature of Ohio, his adopted state, and in congress, he sustained a high standing. Having served several years in congress, he declined being a candidate for reelection, against the wishes of his constituents and friends. He would have been re-elected, probably, without opposition; and had he remained in congress, it is not doubted that he would have been elected speaker of the house of representatives. In 1829, he was appointed district judge of the United States, for the state of Ohio. The duties of this office he continued to discharge until his death, in 1833. Having been abstracted from his profession



some 10 or 12 years, while engaged in political life, Judge Campbell, on taking his seat on the bench, reviewed his legal studies with as much energy and success as could be expected from the ardor of youth. He possessed a strong mind and a well-balanced judgment. His perceptions were not quick; but they were clear, and they were carried out and sustained by the most patient and laborious effort. In forming a correct judgment of men and measures, he had few equals; and in a manly independence and purity of purpose he was unsurpassed. As a judge, he was highly respectable, and, had his valuable life been spared, he would have become eminent. That indomitable spirit which, in youth, overcame all obstacles, was bearing him onward and upward in his judicial course. He had a capacity, a steadiness, and a perseverance which insured no ordinary degree of success, in every line of study which engaged his attention. Judge Campbell's modesty amounted to diffidence; and yet he had no common share of moral courage. He was rather prone to underrate his own powers of mind, and, indeed, he had as little of selfishness in his character as any other human being. His friendship was without alloy. It was deep and abiding. His heart was full of the most endearing principles of humanity.

CHASE, SALMON PORTLAND.

{For brief biographical notice, see 30 Fed. Cas. 1367}

The following obituary notice is reprinted from 4 Dill.:

At the opening of the circuit court for the district of Nebraska on Thursday, May 8, 1873, the circuit judge announced the death of Mr. Chief Justice Chase, saying: "Gentlemen of the bar: The telegraph brings us this morning the sad intelligence of the death, on yesterday, of Chief Justice Chase. It is fitting that all classes of citizens should pay appropriate honors to the memory of one who for more than a quarter of a century has worthily filled so many places of public trust and confidence in the country. It is especially fitting that this should be done by the courts of law, and particularly by the courts of the United States. The illustrious deceased was the head of the national judiciary. He occupied the seat which the professional as well as the popular mind associates with the great and venerable names of Marshall and Taney. The seat to day is vacant. The chief of the highest tribunal on earth—a tribunal more august than the Amphictyonic Council—a tribunal endeared to the American people by the spotless character of its individual members, and by the unclouded splendor of its reputation—lies, after a long life of usefulness and honor, silent in death."

(The court appointed a committee of the bar to draft appropriate resolutions, which were, on the following day, presented to the court by Mr. James M. Woolworth, the chairman, with appropriate remarks.)

The following are the resolutions:

"Resolved, that the death of the chief justice of the United States, announced in fitting terms by his honor, the presiding judge, has closed a career of eminent service and benef-

icence. In the first conflict with the arrogant slave power, he stood forth a stalwart figure, inspired by the loftiest philanthropy, and sustained by an unconquerable courage, and did dauntless battle for the weak and the oppressed. In the great Rebellion, which drained the best blood of the people and the vast wealth of the land, and the inexorable demand, still unsatisfied, called for new and strange devices for replenishing the treasury of the Union, his wisdom conceived, developed, matured, and executed a series of financial measures which supplied the great necessities of those times, and in these days of peace form an integral part of the government. And in that highest human dignity in which we-most delight to honor him, the chief of the august tribunal over which he presided, adjudicating the new questions to which the wargave rise, and expounding the novel phases which the federal power has assumed, he towers before us a character solid, massive, and pure,—the peer of those greatest of our country's magistrates, Marshall and Taney."

"Resolved, that while we mourn the loss which the nation has sustained in the demise of this great and good man, we rejoice that his life was so long protracted to be illustrated by services so beneficent and noble to his country and race."

On behalf of the court, the circuit judge responded :

"We assure the bar that the court fully shares in the sentiments respecting the illustrious deceased, and his services and character, so appropriately expressed in the resolutions just presented, and in the eloquent observations with which they have been accompanied. It is not necessary to recount the history or services of the late chief justice. For more than twenty-five years his life has been spent in public employment, and in the public eye. To him have been committed, at various times, high executive, administrative, legislative, and judicial trusts. He has been called upon to act in many of the decided epochs which have marked the marvelous growth and development of our country during his time, and he has demonstrated his greatness by rising always to the full height of any demand made upon his intellectual resources. There is one portion of his public history which his countrymen, and lovers of constitutional liberty in all lands, now and hereafter, will cherish with peculiar interest. I allude to his services throughout the Civil War as the counselor of the lamented Lincoln, and as finance minister. Instead of pressing the securities of an imperiled nation upon the timid and unfriendly capitalists of the old world, he appealed with confidence to the people, whose highest interests were at stake. The result attested his wisdom, and surprised the world and even ourselves. To him, as secretary of the treasury, may justly be applied, in all its scope, the magnificent and striking eulogy which Webster pronounced on Hamilton: He touched the dead corpse of the public credit, and it sprang to its feet. He smote the rock of the national resources, and abundant streams of revenue gushed forth. I am aware that the opinion has, to some extent, prevailed, that Mr. Chase did not increase his reputation by his services as chief justice of the supreme court I do not concur in that opinion. In intellectual capacity, in purity of life and character, I

regard him a worthy successor of the great men to whose seat he succeeded. Before his health gave way he seemed to do as much work in the supreme court, and on the circuit, as either of his associates, or as any of his predecessors, had done. Some of his published judgments, particularly those respecting the constitutional powers and relations of the state and federal government, and those concerning the novel questions which grew out of the civil conflict, in logical force, clearness, and finished beauty of expression, take rank with the best opinions of Sir William Scott or Lord Mansfield, and scarcely fall below those of even Marshall himself. We join with the bar and with all classes of citizens in mourning the death of the chief justice, and in desiring to pay honors to his memory. Accordingly, the resolutions presented will be ordered to be entered of record, and the court will be adjourned during the remainder of the day.”

{The following is reprinted from the preface of Chase’s Decisions, iv:}

On the receipt of the intelligence of the death of the chief justice, a meeting of the bench and bar of Maryland was held on the 9th of May, 1873. in the United States court room in Baltimore, and the following proceedings took place:

The Hon. Reverdy Johnson called the meeting to order by saying: “All are aware that the occasion that brings us together is to pay respect to the late chief justice, and, in order that we may organize, I move that the Hon. Justice Giles, United states district judge, be called to the chair.”

This motion being carried, Judge Giles took the chair. On motion of Hon. Reverdy Johnson, Henry Stockbridge, Esq., was chosen to act as secretary. Mr. Johnson suggested the appointment of a committee to prepare suitable resolutions expressive of the sense of the meeting. The chair accepted the suggestion, and appointed Hon. Reverdy Johnson, I. Nevitt Steele, A. Sterling, W. S. Waters, R. S. Mathews, and J. P. Poe, who retired to draft the resolutions. The committee in a few minutes reported the following:

“Whereas, the bench and bar of Maryland have heard with deep regret the death of Salmon P. Chase, the late chief justice of the United States, and desire to express their sense of the loss which has been sustained by the country and by the profession, and of his eminent merits as a man and a judge, therefore, be it

“Resolved, that in the death of the late Salmon P. Chase the country has been deprived of the services of a jurist who has fairly adorned his high position, and who, by the purity of his life, the extent and variety of his learning, the comprehensiveness of his intellect, and unswerving devotion to justice and law, has left another illustrious example for the inspiration and guidance of our profession.

“Resolved, that the spotless integrity which distinguished his discharge of duty in the many official positions to which he had been elevated by the respect and confidence of his fellow citizens, fully entitles him to an honorable place in history, and to the grateful memories of his country.

“Resolved, while the bar of Maryland had not in any large degree the happiness of enjoying those genial and generous qualities which made the late chief justice the ornament of every social circle in which he was wont to move, they cannot refrain from bearing testimony to the impressions which his attractive qualities made upon them during his comparatively brief attendance in this circuit.

“Resolved, that the sympathies of the bench and bar of Maryland are respectfully tendered to the bereaved family of Mr. Chase, and the secretary of the meeting is instructed to forward to them a copy of these resolutions.

“Resolved, that the judges of the circuit court are requested to direct a copy of these resolutions to be entered upon the minutes of the court.”

The Hon. Reverdy Johnson, in rising to second the passage of the resolutions, said he had enjoyed the acquaintance of Chief Justice Chase longer than any other member of the Maryland bar. He (Johnson) had known him at the bar, in the senate of the United States, and as secretary of the treasury of the United States, and in all these several offices he had not only known him generally, but intimately. He had discharged the duties of each with wonderful ability. He came to the bench upon the death of his immediate predecessor, in December, 1864. As secretary of the treasury he discharged the high functions of his position creditably, but he had not for years engaged in the active duties of his profession, and there was a doubt of his filling worthily the place of his great prede-

cessor, but at his first term that doubt was removed; that term at which he first presided was the December term of 1864. There were then before the court cases involving many questions of admiralty law, and the rights and duties of citizens of states that had been involved in the war. Chief Justice Chase had on all the questions that had been presented for adjudication given opinions, and discussed each with so much ability that it showed that he was fully acquainted with the knowledge necessary for their proper adjudication. Those opinions were so clearly and elegantly expressed that they were models of judicial style. The bar and bench at once said that the ermine worn by his predecessor was in hands to preserve it unspotted. Mr. Johnson sketched the important decisions given by Chief Justice Chase in relation to the enforcement act, legal tender, and other matters, and said he was not unworthy to fill the place that Marshall had filled for thirty, and Taney for thirty-four, years. What was said by Randolph, of Roanoke, upon the occasion of the death of Marshall, might, with equal propriety, be said of Taney and Chase. He presided with native dignity and unpretending grace. In point of ability he was the equal of either of them. His opinions will bear the strictest scrutiny, and in learning and moral considerations compare favorably with those of his illustrious predecessor. There are men that survive upon the bench who fully equal him; there are men in the different states in the profession who might equal him, and it is to be hoped that in his successor may be found in equal degree the attributes of learning, mental power, courtesy of manner, and purity of character.

R. Stockett Mathews rose to second the motion of Mr. Johnson for the adoption of the resolutions reported by the committee. He said: He could not refrain from giving some expression to his accord with the thoughts expressed by Mr. Johnson. Mr. Mathews recalled Chief Justice Chase as he had seen him when full of life and vigor and manly beauty. Never had the speaker seen a man whose mere presence so impressed the beholder with a sense of capacity. He possessed a strong power of reasoning, that enabled him to grasp the most difficult subjects, and wrest from them their simplicity and clearness. He was a large man in the broadest sense of the term. Not a mere lawyer in unquestioning servitude to tradition, or in blind veneration for precedents, he sought to reach results in his decisions which would stand the tests of mutation of opinion, and changing conditions of society in coming generations. He did not seek mere popularity nor present applause, but with sure precision was always able to anticipate the judgment of the future. In his brave grasp of difficult problems it was of himself and his personal interest that he thought last. He possessed in a remarkable degree the suavity of temperament and the kindly graces of heart which drew towards him the homage and friendship of others with whom he associated, and especially of younger men. whom he never overwhelmed with inconsiderate exhibitions of his rank and greatness, out sought to win them by placing at their service his wealth of gathered stores, his ripe wisdom, and his sympathetic

counsels. He numbered, perhaps, more warm admirers and a larger number of devoted friends than any statesman of his time. And one of them, in the dispatch sent to apprise his family at Washington of the sudden decease of Mr. Chase, has eloquently described him in a single sentence, "Our grand man is gone." Mr. Chairman, he was a grand man. It has been said that he was ambitious. But who, with such noble powers, such generous instincts, would not desire to put every great faculty at the service of his country? He was ambitious for a larger field and ampler opportunities to do good, and to achieve greatness for his nation rather than for himself. He may have felt that he was better fitted for the administration than the interpretation of law. One thing is assured beyond all cavil,—he filled many stations and discharged great trusts, and he adorned every position with the beauty of spotless probity, and fulfilled every duty with a disinterested patriotism which has seldom been surpassed. Mr. Mathews then drew a touching picture of Mr. Chase's appearance when he last saw him, some months ago, in Philadelphia, speaking of him as the "counterfeit presentment" of his former self, and closed with a warm tribute to his native royalty of heart, the charm of his manners, and the dignity of his public life.

When Mr. Mathews concluded, the resolutions were put by Judge Giles, and were unanimously adopted. The meeting then adjourned.

On the same day a similar meeting of the bench and bar of Virginia took place in the United States court room in Richmond, which was presided over by the Hon. James Lyons, with M. P. Pleasant, Esq., clerk of the U. S. circuit court, as secretary. Messrs. William Green, W. A. Maury, Bradley T. Johnson, James Neeson, Hon. E. H. Fitzhugh, judge of the chancery court for the city of Richmond, Hon. Beverly R. Willford, judge of the circuit court for the city of Richmond, E. Barsdale, Jr., Esq., W. W. Henry,, Charles Dabney, Hon. James C. Taylor, attorney general of Virginia, John O. Steger, and John Howard, were

appointed a committee to prepare and report suitable resolutions. They reported the following:

“Seldom is it that the hand of death snatches from the place of honor a man more inspired by greatness and moral worth than Salmon Portland Chase, to whose memory we are now come together in these precincts of justice, which will know him no more forever, to lay tribute. His sudden death, after being so recently amongst us in apparently improved health, and deepening the impressions he had already made upon our minds and hearts, has caused a shock, from which we shall not soon recover, and is another solemn lesson that ‘the paths of glory lead but to the grave.’ From one end to the other of this broad and varied land will his death produce grief, and a sense that this time, in very truth, has death pulled down a great pillar of state, and that there are few in the land to supply his place. Called to the position of chief justice of the supreme court of the United States from the station of secretary of the treasury, as was his distinguished predecessor, like him, he rose superior to the passions and prejudices of the hour. His greatness could not have been subjected to a more crucial test than by his succession to the position made vacant by the death of that mirror of justice and judicial propriety, the venerable and ever to be revered Roger Brooke Taney. It had been many years since Mr. Chase had any experience at the bar when he was made chief justice; and, had he not been a man of extraordinary endowments, his appointment would have been a serious mistake; but it turned out that in his case the particular in which he was thought to be wanting—a sufficient practical acquaintance with jurisprudence—was one of his best qualifications, for he went on the bench at a time when he was soon to encounter those new and important questions which arose in the southern states after the close of the war,—questions which were only to be satisfactorily resolved by a mind of vigorous and comprehensive grasp, accustomed to a frequent recurrence to great principles, but, at the same time, accustomed to range untrammelled by precedents. That the mind of Chief Justice Chase was of that stamp, no person of discernment will question. It may be safely said that there was no man known to us who was better fitted to handle those novel questions than he was. His boldness and independence, and at the same time his sobriety, as a thinker, are too well known to be more than referred to. There was a massiveness and self-reliance, a solidity and equilibrium, about his mind that were impressive, and singled him out as one born to figure in matters of great concernment. The high traits of his intellect were conspicuously shown while he was at the head of the treasury, the duties of which position he administered with distinguished sagacity and originality; so much so that he falsified predictions as to the effect of his measures confidently made in high quarters in Europe. The consciousness of his masterly administration in finance was, it is believed, a source of great satisfaction to him. Endowed with an intellect of such Characteristics,—mind impatient of things narrow or technical,—it was exceedingly opportune that, during the brief period he

held a judicial station, there was work for him of a kind both suitable and congenial. He at once began to deal very masterly with the great international questions that came before the supreme court, sitting as a tribunal of prize; but, perhaps, in no cases did the greatness of his judicial qualifications so generally impress themselves on the whole country as in those cases usually called 'The Gold Cases.' His judgments in those cases were couched in terms so luminous, and enforced by reasoning so irresistible, that all previous doubts and conflicts—and they were many—were at once laid, and men wondered that a matter, now so clear, should ever have been obscured by misgivings. It is an interesting coincidence that the chief justice should have most distinguished himself as a judge in cases involving questions about the currency. The greatness of Chief Justice Chase was set off by a striking simplicity and directness, both in manner and diction. What he said was briefly said, and yet it always appeared by a *curiosa felicitas* to be fully said. His brevity was never cramped or straightened, but his subject was laid before you in all its length and breadth and thickness. His character was pure and spotless, and notwithstanding his life before his elevation to the bench was passed in times of great bitterness and rancor, in which he was a prominent actor, there never was a suspicion of his integrity. Viewed in his social relations, there is none of us who will not treasure the recollection of his personal intercourse with the deceased, or that will ever forget his geniality, tempered only, but not diminished, by a perfect and quiet dignity, or that readiness to listen, and entire freedom from dogmatism, which lent such a charm to his society.

"Resolved, that this meeting of the bar and judges of Virginia is deeply penetrated by a sense of the calamity which they, in common with the rest of the people of the United States, have sustained in the death of the Hon. Salmon Portland Chase, and that they will ever cherish his memory, which is endeared to them no less by many personal attractions and associations than by his eminent ability and wisdom.

"Resolved, that we will wear the usual badge of mourning for thirty days.

"Resolved, that the chairman of this meeting be requested to present a copy of the foregoing preamble and resolutions to the circuit court of the United States and the supreme court of appeals of Virginia, at Richmond, with the request that the same be spread on the minutes of the said courts. c

"Resolved, that the chairman of this meeting be requested to transmit a copy of the preamble and resolutions foregoing to the family of the deceased."

William A. Maury, Esq., moved the adoption of the resolutions, when General Bradley T. Johnson addressed the meeting as follows;

"Mr. Chairman: In the vicissitudes of life a man is seldom called upon to perform a sadder duty than I undertake now, for I am to speak of the death of one who was not only the lover of the liberties of this whole country, and the defender of its constitution, but he was the sincere sympathizer with the distress of my own broken and suffering



people, the brave champion of their rights, and my personal friend. But now, while the country stands awe-struck at this unexpected dispensation of Providence, which has taken from it one of its foremost men, and words but faintly express our feelings, it is right and proper that we should bear our testimony, however humble, to his character as a man, his conduct as a statesman, and his purity and wisdom as a magistrate. From the beginning of that career which was to become so illustrious in American history, he evinced that high moral courage in the enunciation and defense of principles he thought true, that consistency in the maintenance of them, and that intrepidity in following them out, that have long since elicited the admiration of all, even those of us who differed from him so widely and so irreconcilably. Coming in the flush of mature manhood to the senate of the United States, he so bore himself in that high arena as to prove himself worthy of his great compeers. Called thence to preside over the destinies of one of the American commonwealths, he guided her action during those trying times so as to earn the applause of his fellow-citizens who had placed him there; and immediately afterwards, placed in charge of the finances of the United States, his will, sagacity, and skill so conducted them that he became probably the most efficient support of his government in the Civil War. He was placed on the bench in the last months of that struggle, and he at once appreciated clearly the great opportunities which opened on the cessation of it. He rose to the height of statesmanship which those opportunities required, and he was earnest in his efforts that they should be improved. He perfectly appreciated the danger to Republican liberty from the tremendous accession of power brought to the government by such a prodigious effort of national life, and his first endeavor was to restore the supremacy of the civil law over military

rule; to bring back the rule of right and justice over that of force and the strong hand. Acting under the conviction of the absolute necessity for this, he sought to expedite it by declining to exercise his judicial functions in the territory lately in arms until civil authority was restored, until the writ of the law became supreme over the order of the soldier. He pressed upon the president the justice and necessity that this state of things should at once be inaugurated, and in 1867, when the proclamation of the executive of the United States had assured the world that such was the case, he first entered upon his duties here. His first coming among our people was received respectfully and unostentatiously. He had been the lifelong adversary of our political systems and our social organization, and his genius, more than that of any one man, had contributed to our overthrow, and we waited to see what application of his principles we should be called on to observe. A short time sufficed to dispel all doubts. Rising at once to the greatness of the occasion, he eliminated and declared the principles of public law which controlled our circumstances, and from them marked out an application which operated as amnesty, peace, and security for life and property. In the case of *Keppell's Administrator v. The Petersburg Railroad*, he announced that the contest through which we had gone was a civil war, and that all the consequences of general war flowed from it. He declared that the acts of the governments belligerent to the federal government, so far as they concerned private rights and personal obligations, were to be respected by the federal courts, and he held that the court would take judicial notice of the fact that the business transactions of life here during the war were based on Confederate currency, which currency was to be treated as of its real value.

“In the case of *United States v. Morrison*, in the South Carolina district, he decided that the orders of military officers in time of war protected persons obeying them from all liability, penal or personal, for acts of war. Following these broad and beneficent declarations of legal principles controlling the status of the late Confederate States, his decisions here during the few years he presided in this circuit did more to restore confidence, to reconstruct our shattered institutions, and to rehabilitate peace than all other acts of all other functionaries. With a contrary course of decision we should have been plunged in endless confusion. All contracts made during the war and acts done, all judicial proceedings, would have been considered void, and years of turmoil and exasperating controversy would have been before us. He saved us all this.

“The existence of the state governments *de facto* being granted, all their acts relating to the common affairs of life were sustained and upheld. The actual existence of Confederate currency acknowledged, all transactions based on it became obligatory and enforceable. Immunity for acts of war done in obedience to military orders once secured, prosecutions for treason became well-nigh impossible, and so his course of judicial decision at once restored confidence, quiet, and order among our people in all their relations to themselves.

He went further, for he authorized me to record that his judicial opinion in the case of Mr. Jefferson Davis was that the adoption of the fourteenth amendment operated as a complete and perfect amnesty against all political offenses claimed to have been committed during the war, by aiding, assisting, or abetting it. His decisions have been followed by the supreme court, whose adjudications they preceded, and we are indebted to him for the policy of the law adopted and enforced by that tribunal. I do not believe that his abilities as a magistrate are yet fully appreciated by the profession, but I am sure that the final judgment of the bar will place his decisions side by side with those of Marshall and Taney, his great predecessors.

“His style was exceedingly clear and concise, and I know no happier specimen of judicial expression than that in the case of *The Gary*, where he calls admiralty the human Providence that watches over those who go down to the sea in ships, and do their business on the great waters; nor that other one in the case of *Texas v. Chiles*, where, referring to the language of the old articles of confederation and of the constitution, he declares the object of the latter to be ‘to make more perfect the perpetual Union’ created by the former,—‘thereby creating an indissoluble Union of indestructible states.’

“His purity as a man was beyond the breath of suspicion. While at the head of the treasury of the United States, disbursing the enormous expenditures of the war, his salary being insufficient to support his family, he paid his annual expenses out of the savings of former years, and went out-of the treasury a poorer man than he went into it. He was ambitious,—not eager for applause nor desirous of the approbation of the public, but ambitious of serving his country and of reuniting her dissevered members; for, he said, his only desire to be president arose from the conviction that he could bring back reconciliation and peace were he intrusted with the power of chief executive to mould the policy of the government. He was so warm a friend, and so thoroughly a sympathizer with us, that he desired to make his home in this city; and on his last visit here he told me that if the house of the late Chief Justice Marshall had not been occupied by the gentleman who lives in it, he should have purchased it and fitted it up as his permanent residence and home. In his death the country has been deprived of a great magistrate, and we have lost a staunch and able friend.

Colonel H. Coulter Cabell followed in some remarks, stating that he had known Chief Justice Chase in early life, and in late years, and that he bore willing testimony to his rare ability and personal qualities.

The resolutions were then adopted. On presenting them to the circuit court of the United States, the Hon. James Lyons, the chairman of the meeting, paid a tribute of high eulogy to the character and abilities of the chief justice, and mentioned an incident which occurred during the reconstructive era, when Mr. Lyons casually mentioned to him that a staff officer of the general commanding had been detailed to do duty as presiding judge

of the court of appeals of Virginia. Upon the chief justice expressing his incredulity as to such a fact, thinking that a jest was being made with him, the morning paper was produced, in which the military order was published, relieving an officer from duty as judge of the hustings court of the city of Richmond, and detailing him as judge of the supreme court of appeals of Virginia. "Great Heavens!" said the chief justice, "and will your bar consent to appear before a court thus constituted?"

His honor, Judge Bond, said: "Gentlemen of the bar: It is with sorrow for the occasion which requires it that I yield to the motion which you have offered. For the loss of the late chief justice, the nation at large will lament. His past eminent services in the congress of the United States, in the cabinet during the most trying period of the nation's history, and on the bench of the supreme court since, have taught all his fellow citizens to revere and honor him who love integrity and moral and intellectual worth. But to the bar and people of this judicial circuit his loss is particularly severe and painful. Assigned to this circuit, and coming among you as he did, immediately after the close of the war, when the citizens of these states, alarmed by the result, were doubtful of the future, when the rights of property and personal security were altogether unsettled, he was enabled by his great ability and knowledge of jurisprudence, notwithstanding the many new questions arising out of recent events, to inspire confidence in the courts of the United States, to restore quiet of mind, and to hold so evenly the balance of justice among his fellow citizens, who had widely and vehemently differed with him in the political forum, as to win the good opinion of the whole bar. One by one, rapidly those who endured the strain and severe anxiety of the great conflict depart,—men whom the republic would long delight to honor,—but among those whom we lament there is no one who will hereafter be

thought to excel, in uprightness, ability, integrity, and patriotic devotion to the best interest of his country in war and peace, Salmon P. Chase. I shall direct your proceedings to be entered on the minutes of the court, and will adjourn at once in respect to the memory of the deceased.”

The court then adjourned.

CRANCH, WILLIAM.

[For brief biographical notice, see 30 Fed. Cas. 1368.]

The following proceedings are reprinted from 2 Hayw. & H. 435:

Circuit Court of the District of Columbia, for the County of Washington. October 15, 1855.

On the opening of this court this morning, John Marbury, Esq., after some preliminary remarks, read to the court the following proceedings:

At a meeting of the members of the bar of the District of Columbia and the officers of the courts, held pursuant to notice, John Marbury, Esq., was called to the chair, and John A Smith appointed secretary.

Richard S. Coxe, Esq., rose and stated that the meeting had assembled in consequence of an event which, though long anticipated, had struck them with surprise. They had met to commemorate the life, virtues and character of their deceased brother, the Honorable William Cranch, chief judge of the circuit court and judge of the district court of the District of Columbia, who died at his residence in this city on Saturday last, September 1, 1855. Judge Cranch died at the age of 86 years, after having lived thus long as an individual, and has presided on the bench a longer period of time than had ever been heard of in a judicial officer. He was appointed a judge of the circuit court in March, 1801, 54 years since. He has now left us, and the place made vacant by his death is to be supplied; but he might say a long time would elapse before that place could be supplied with so acceptable a gentleman and one possessed of so much ability. All who knew him in the course of their practice in the courts, knew how well and admirably he fulfilled all the duties with which he was intrusted. Few judges ever excelled him; few ever equalled him in all the essentials of a great judge. He was eminent for learning in all the departments of law, (admiralty, chancery, criminal and common,) and was thoroughly imbued with the learning of the profession from the earliest days. We have met with a great loss, but thank God! he has left a bright example. We trust that every young man, while he reverences, will follow him —will imitate Judge Cranch in industry, and endeavor to equal him in learning, be pure of heart as he was pure, honorable as he was honorable, so as to have as pure and eminent a character for the admiration of his countrymen.

Mr. Coxe offered the following resolution: “Resolved, that a committee of five members of the meeting be appointed by the chair, to draft appropriate resolutions, on the subject which has thus convened us together.” The chair appointed Richard S. Coxe,

Wm. Redin, Joseph H. Bradley, James M. Carlisle and John F. Ennis, Esqrs., who having retired, subsequently returned, and by their chairman, Mr. Coxe, presented the following resolutions: "The Hon. William Cranch, chief judge of the circuit court and judge of the district court of the District of Columbia, having departed this life on Saturday, the 1st of Sept. 1855, the members of the bar and officers of the court, entertain the highest veneration for the private and public character of the deceased,— duly appreciating his great and varied professional attainments, his unsullied integrity, his patient diligence, his uniform courtesy and amenity of manner on the bench and in private intercourse, regard his death, though long anticipated, with deep regret and as a severe public loss. They have therefore: (1) Be solved, that during the whole course of the private life of the deceased in this vicinity, extending beyond sixty years, he had eminently entitled himself to possess what he fully enjoyed, the unqualified admiration and esteem of our whole community. (2) Resolved, that as a reporter of the decisions of the supreme court, and as a judge of the circuit court, on the bench of which he occupied a seat for upwards of 54 years, he was distinguished for his acquirements in all the different branches of professional learning, for untiring industry, for indefatigable diligence in the discharge of his duties, for his kind and courteous amenity of deportment towards all with whom he had intercourse, for dignified, patient, and impartial treatment toward his colleagues and the members of the bar. (3) Resolved, that we deeply deplore the loss which the community, the profession, and we ourselves more especially have sustained in the death of Judge Cranch. (4) Resolved, that in the manifestation of the high esteem and respect we entertain for the deceased, we will wear the customary badge of mourning for the period of thirty days, and will as a body attend his funeral. (5) Resolved, that we will undertake, with the consent and approbation of the family, to erect a substantial and appropriate monument over the grave of the deceased in commemoration of his character, and that the chairman of this meeting, Mr. Redin and Mr. Carlisle be a committee to carry this resolution into effect. (6) Resolved, that the chairman communicate a copy of these proceedings to the family of the departed, with an expression of our condolence with them in the loss they have sustained. (7) Resolved, that at the next meeting of the circuit court the chairman be requested to present a copy to the court with a request that the same may be entered upon the minutes of the court. (8) Resolved, that copies of these proceedings be handed to the different newspapers in this district for publication. The resolutions having been seconded by Mr. Carlisle, with appropriate remarks, were unanimously adopted. John Smith, Secretary. John Marbury, Chairman."

After the reading of the above proceedings Mr. R. S. Coxe, with some appropriate remarks, seconded the motion that the same be entered on the minutes of the court and then moved that the court adjourn one week. To which the Hon. James S. Morsell, the presiding judge, made the following reply: "Gentlemen of the Bar and Officers of the

Court: We heartily unite with you in doing honor to the memory of our lamented brother, Judge Cranch. He was all that you so respectfully and appropriately ascribe to him. You have not said too much. A great and good judge has gone from us; his loss is deeply deplored by us all. But though he has gone, he will still live in the admiring memory of a grateful community, who have for so many years enjoyed the blessings of his able, pure and impartial administration of justice. In the eminent example he has left us of a pure and unsullied character and in the rich fruit of his long and indefatigable judicial labors. In addition to a display of superior legal talent, his course was marked by a calm and amiable composure of temper and patient forbearance, with an inflexible faithfulness and uprightness; to the rich and the poor he was alike impartial and just, always accessible and ready, cheerfully on all occasions, however arduous the duties to fulfill them. The court therefore order the resolutions of the bar and officers of the court to be entered on the records of the court, and the judges will wear the customary badge of mourning during the residue of the term." The court also passed the following order: "Ordered by the court that the court room be draped in mourning during the residue of the term."

Memoir of Wm. Cranch, LL. D., chief judge of the U. S. circuit court of the District of Columbia: "Wm. Cranch, chief judge of the U. S. circuit court of the District of Columbia, was the only son of Judge Richard Cranch, of Quincy, Mass., who emigrated from England to this country in the year 1746, and Mary Smith, a daughter of the Rev. Wm. Smith, of Weymouth, Mass. He was born at Weymouth on the 17th

day of July, 1769, and received his early education from his mother, a woman of high accomplishments and of rare virtue, who instructed him also in the elements of Latin and algebra. He was afterwards fitted for college by his uncle, the Rev. Wm. Shaw, of Haverhill, Mass., in whose family he in the meantime resided. In 1773, he entered Harvard University, in the same class with his cousin, John Quincy Adams, between whom and himself there had always existed a sincere and intimate friendship, which remained unimpaired to the time of Mr. Adams' decease. In 1787, he graduated, and in the same year commenced reading law in the office of the Hon. Thos. Dawes, one of the justices of the supreme judicial court of Massachusetts. In July, 1790, he was admitted to practice in the court of common pleas, and in July, 1791, in the supreme judicial court. On the death of his relative, John Thaxter, Esq., who had been settled in the practice of the law, in Haverhill, Mr. Cranch removed to that place and took charge of his unfinished business. After practicing in the courts of Mass. and N. H. for nearly four years, he removed to the city of Washington, and had charge of the large contracts of Morris, Nicholson and Greenleaf, in that city. In 1800 he was appointed one of the commissioners of the public buildings, then in process of erection. In 1801 he was appointed by President Adams one of the assistant judges of the circuit court of the District of Columbia, under the act of the 27th of February, 1801; and on the resignation of Mr. Kilty, chief judge, in 1805, he was appointed by President Jefferson, in his place. Judge Cranch succeeded Mr. Dallas, as reporter of the decisions of the supreme court of the United States. These reports are well known, and are highly valued by the profession. He also made accurate reports of the cases decided in the circuit court of the District of Columbia, from its organization to 1841. These Reports have not failed to be acceptable to the profession and to the public, from the great variety and importance of the cases arising under the wide and peculiar jurisdiction of a United States court at the seat of government. In 1827 Judge Cranch, by request, delivered 'A Memoir of the Life, Character and Writings of John Adams' before the Columbian Institute. He also prepared a Code of Laws for the District of Columbia, in conformity to an act of congress, which was printed by order of congress but was never referred to a committee. In the year 1829 the degree of doctor of laws was conferred upon him by Harvard University. He was an honorary member of the American Academy of Arts and Science, also a member of the Antiquarian Society. The life of Judge Cranch, like that of many other distinguished men, has been marked with few of those vicissitudes which impart so great an interest in biography. In the regular exercise of his high duties for 54 years, his life has been varied only by those events which are incident to all men. As chief judge he has been eminent alike for profound learning, and for impartiality and wisdom. It would be difficult to find one in any situation who has labored more diligently, more patiently, or more successfully than he has done, in the office which he has so long and so faithfully filled."



CURTIS, BENJAMIN ROBBINS.

{For brief biographical notice, see 30 Fed. Cas. 1368.}

The following matter is reprinted from 4 Cliff. 625:

Pursuant to the call of the committee appointed at the meeting of the bar held Sept. 18, 1874, the members of the bar assembled in the court room of the circuit court Oct. 7, 1874, at ten o'clock. Mr. Sidney Bartlett presided. The committee, through their chairman, presented their report, and members of the bar added their tribute to the memory of the distinguished deceased.

Report of the committee: "Circuit Court of the United States, District of Massachusetts. October 7, 1874. The members of the bar of this court, brought together by the news of the decease of their brother and friend, Benjamin Bobbins Curtis, desire to place upon the records of the court the expression of their sense of personal bereavement and of the loss which the bar, the courts, and the country at large have sustained by his death. They recognized, with fraternal pride, in Mr. Curtis all the elements of a great lawyer and judge. Thoroughly grounded in the common and commercial law, master of equity in the peculiar yet broad domain of jurisprudence administered in the courts of the United States, the fullness, breadth, and accuracy of his learning were not surpassed at the bar or on the bench of his time. With a strong mind carefully trained and disciplined, capacious and retentive memory, sound and cautious judgment, the mental qualities which illustrated and gave full force and effect to the rest were an almost intuitive capacity to discern the points on which a cause hinged. and the power of simple, clear, comprehensive statement,—in method and manner as perfect when oral as when written, and which gave to the enunciation of legal principles something of the beauty and precision of the exact sciences. His manners at the bar and on the bench were quiet, courteous, and marked by a modest dignity and firmness which won, or, if need be, commanded respect. We may not better express the admiration and esteem in which Judge Curtis was held than to say that, when the last two vacancies occurred in the chief justiceship of the supreme court of the United States, he was deemed, by his brethren of the bar throughout the country, eminently fitted by wisdom, learning, love of justice, and a thoroughly judicial mind, to discharge the duties of that exalted trust. Of Judge Curtis, as an associate and friend, it may be said that the better he was known the more highly he was esteemed. Under a calm and quiet exterior, which to strangers seemed like coldness, he had warm affections and generous sympathies. Careful observation of life and manners, a liberal culture outside of his profession, conversation thoughtful and suggestive, and marked by curious felicity of expression, made him a most interesting and instructive companion. The name of Judge Curtis is to be added to the list of great lawyers and judges, who, not as a matter of sentiment merely, but as the result of careful study and reflection, were firm believers in the great truths of Christianity. Not inattentive to modern scientific thought or specu-

lation, catholic in spirit, unwilling to judge others, he retained to the last his conviction and sense of the being and providence of God and the hope of immortal life. Recalling to-day his services to the cause of jurisprudence, his fidelity to duty, the amenity of his manners and the kindness of his heart, his pride in his profession and the lustre and dignity he imparted to it, and, above all, the integrity, weight, and influence of his character, his brethren of the bar gratefully pay this tribute to his memory.”

Remarks of Hon. E. Rockwood Hoar: “Mr. Chairman,—I move that the sentiments of the bar, in regard to the death of Judge Curtis, as reported by your committee, be presented by the district attorney to the circuit court, which shall come in this morning, with the request that they be entered on the records of the court. I do not feel, Mr. Chairman and brethren, that it is necessary for me to add anything to the very complete expression of our thoughts and feelings on this occasion, which the report of the committee contains yet I desire to add my personal expression of our sense of loss, and the more, because, to my own sorrow and regret, I could not attend the funeral services of our friend. Judge Curtis was a man in his position and relations in life so admirable and so complete, that a statement of his merits, modelled upon his own style of presentation, seems to me the most appropriate. What a monument at Mount Auburn records of one of his early associates at the bar is eminently true of him,—that ‘he had the beauty of accuracy in his understanding, and the beauty of uprightness in

his character.' I think that his loss at the present time is a national one, for this more than, perhaps, any other reason, that in the supreme court at Washington he was a model to the lawyers of the country; that in these days, when there are so many defects of taste, he was a model of good taste in the profession; that he did nothing in excess, while all his professional performances were adequate to the occasion. I think the loss of no lawyer in the country would be so much felt by the members of that high tribunal. In these days of loose and turgid eloquence, and of imperfect legal training, of which there are so many exhibitions before them, they must have constantly felt it a relief, and pleasure, and satisfaction, when they could turn for an hour or two to listen to that master of lucid statement, with a wealth of learning never paraded, but always ample in furnishing what the case and the presentation of it required, with clear perception of the point at issue, rigidly confining himself to conveying it clearly to the mind of the tribunal which he addressed, and then stopping. I think it is felt among the profession throughout the country that one of its pillars has fallen, as well as one of its ornaments. Entirely concurring with what the paper presented by the committee states of the personal courtesy, generosity, and kindness, which were exhibited by our departed friend, I think that, meeting here as members of the bar, we are entitled to say besides that our commonwealth and this bar has furnished to the country in him one who must be recognized everywhere as a great lawyer. Judge Curtis had his limitations. I do not know that I should be prepared to say or to think that, aside from what he was as a lawyer, he was also a great man. By this I mean that I do not suppose he has produced upon the country or the world any leading or great impression from any thing that he has said or done, except so far as he has made his profession respected, so far as he has administered the law in his judicial position, and as he has applied its principles, in his advocacy of cases, in a manner which tended to strengthen the foundations of society, and to illustrate the value of absolute justice. But the man who has made these contributions to society, who has done so much to keep the administration of justice steady and useful to mankind, to make all the machinery of government in its daily applications serviceable to the interests of his fellow-men, has a solid claim to respectful memory. .Perhaps he has made no contribution to judicial science of the importance of those which were made by his predecessor, Judge Story. Perhaps, as development did not seem to be the order of his being to so great an extent as in some other great judges, it may have been well that in the earlier and formative period of our jurisprudence a man of a different character occupied the seat which he afterwards adorned. But for clearness, learning, steadiness, and uprightness, he has left a judicial fame that any man might envy."

Remarks of Gen. Benjamin F. Butler: "Mr. Chairman, — Being called to another sphere of public duty, I was unhappily unable to mingle my regrets with my brethren at the bar at the meeting of which this is an adjournment, at the great loss the bar of the nation has sustained in the death of our late associate, Judge Curtis. I have used the

extended words, 'the bar of the nation, because I deem the loss of such a lawyer, with so great a national reputation, of accumulated acquirements and extensive practice in the highest branches of jurisprudence, a national loss. It is a tradition, and a true one, that the memory of the work of a great lawyer exists only in the traditions of the bar; and even when embodied in the form of decisions of the bench, they are only sought after by his brethren for a different purpose, and hardly in commemoration of his fame. Still, I think the memory of Judge Curtis will live many, many years in that most able opinion delivered by him in the Dred Scott decision, worthy to be compared with that of Lord Mansfield on a kindred subject, which opened and developed an idea as to the rights of citizens, which has since been embalmed in constitutional law. If I were to venture to add, sir, a word to the resolutions now before us, so happily framed, it would be wherein they describe the lucidity and comprehensiveness of statement which so eminently characterized our deceased associate, and would add the word 'exhaustive.' Having had occasion to observe him in the greatest and most solemn trial had before the highest tribunal ordained by the constitution of his country, the senate of the United States, of the impeachment of Andrew Johnson, I may be permitted with truth to say, that after Judge Curtis had finished his opening statement for his distinguished client, thereafter-wards in that trial in his behalf, although many things were said, and well said, by the learned and eminent counsel with whom he was associated, yet nothing more that was new or pertinent was said. Because of the deep feeling of profound admiration which I have for the legal attainments, the judicial character, of Judge Curtis, I am exceeding glad that it has been permitted to me on this occasion, even by a single word, to testify my respect for his virtues, and to mingle my sorrows here with those of his brethren of this bar."

The chairman here read the following letter which he had received from Judge Campbell, formerly of the United States supreme court:

Judge Campbell's letter:

"169 St. Paul Street, Baltimore, Sept. 20, 1874. My Dear Sir,—The melancholy intelligence of the death of our friend, Judge Curtis, reached me through the press. I can not refrain from expressing my sorrow for the bereavement which the legal profession of the country, his friends, and the community have sustained, to one of his most valued friends and associates. My relations to him commenced after my appointment to the bench of the supreme court of the United States, in 1853. Before that appointment was made, Justices Catron and Curtis informed President Pierce, on behalf of the court, that it would be acceptable to the justices. My reception in the court, as then existing, was cordial, and, as the survivor of all the members that composed it, I may be indulged in making the statement, that, in all of the consultations of that court, and in all of the official acts of its members, there was a seemliness and dignity of deportment; an earnest endeavor to execute justice and to maintain truth, and an impress of personal honor upon their de-

liberations and judgments, which commanded and was entitled to the approbation and esteem of the jurists of the land and the confidence of the people. In that court, Justice Curtis was an able and an esteemed member. He examined the causes submitted with caution and candor; he meditated the opinions he gave in the conference with care, and delivered them With precision, considerateness, and deference to the opinions of others. The opinions he prepared have made for him a lasting reputation. My own relations with him were always those of kindness and good-will, and these relations were not affected by the war, which created so many estrangements. I find in my library, in a volume concerning the 'Worthies of England,' a description of one of the judges of the queen's bench in the sixteenth century. To this judge is attributed a great happiness in all the four faculties that make a lawyer: 1. A sharp invention and a clear comprehension to search all the circumstances of a case propounded. 2. Judgment to examine and weigh the particulars invented and apprehended, for truth lieth in things as gold in mines. 3. Memory to retain what is judged and examined. 4. A prompt and ready delivery of what is conceived and retained, set out with ingenuity and gravity. *Oratio prompta non audax.* What he said was close and pinching, and not confident and earnest; allowing passion not to disturb either the method or delivery of his discourse, but to quicken it. On the margin of the page is written, 'Justice Curtis.' in pencil. I do not know that I could express my opinion of his characteristics with more satisfaction to myself than by adopting a description which I had applied as suitable to him. In the apparent decay of an ambition purely professional, and the diminution of profound and various learning which can

only be obtained through such an ambition, among the bar of the Union, the loss of such a jurist is a loss to the bar. In these tumultuous and anarchical times, when landmarks are so little respected, the loss of a calm, conscientious, learned, independent, and approved constitutional lawyer may be regarded as a public calamity. With, much respect and esteem, I am very truly yours, John A. Campbell.

“Hon. Sidney Bartlett, Boston, Mass.”

Remarks of Mr. H. Weld Fuller: “Mr. Chairman,—I came here to listen, not to speak. But esteeming and loving Judge Curtis as I did, and having occupied a place under him during almost the whole of his judicial career, I trust you will pardon me for breaking the temporary silence which has followed the eloquent utterances of others. Many are present who knew him more intimately and shared more closely his confidence; and they can better speak of his social qualities and portray his noble character and high attainments. But my memory goes back to his college days, and to the rank he then held as a thinker and writer. He was distinguished before his entrance to the law school at Cambridge. Even then the tendency of his mind to matters of government and law was manifest. His prize essay had for its subject, ‘How Far can Absolute Governments Depend upon the Ignorance of the People?’ Indeed his step from boyhood to manhood seemed nearly instantaneous! There was a thoughtfulness and thoroughness unusual for his age. As a student he was indefatigable, and all his accumulations of knowledge, and the inferences incident thereto, were so classified and arranged as to be at all times at his command. During his whole life they seemed to come at his call, without confusion and clear as crystal. By this power of memory and association—modified by a sound judgment and a right application to legitimate issues—he could see and show to others the most striking features of a case, and hold the subject out, like a solid substance, for inspection. It was said of Lord Mansfield that his statement of facts was often equal to another man’s argument; and this may be said of Judge Curtis. without overstating or exaggerating the facts, he could so order and connect them with apt allusions and natural suggestions as to make the deepest and most favorable impression. His cases were always hinged on their strongest points, and opened to the most practicable view. Although strong, very strong in his friendships, he never exhibited any favoritism on the bench. He was courteous to all. The parties before him were as algebraic characters. He looked steadfastly at a legitimate result. Faithful and fearless, he was never arrogant or disdainful. It was a pleasure to serve him. He may have had his faults, but in my intercourse with him I could not see them. We can truly say, ‘Happy is the state which has such men for counselors and judges!’ When they leave us we are bereft, indeed.”

Remarks of Mr. Elias Merwin: “Mr. Chairman, —It is impossible for me to add anything to the just and eloquent tributes which have been paid to Judge Curtis by the distinguished brethren who have preceded me. Did I consult my own feelings,—feelings

which you, Mr. Chairman, who experienced, through so many years and to so great an extent, the constancy and reality of his friendship, will not fail to excuse,—my part to-day would be only that of a sorrowing silence. The character of Judge Curtis was unique, but it was complete. Great as were his intellect and learning, he possessed in an equal degree those sterling personal qualities which give to human friendships their charm and value, and strength and solidity and dignity to character. It is true that he did not 'wear his heart upon his sleeve,' but with the modesty and reserve which belong to the most thoroughly great and genuine natures, he cherished the precious gift in a breast that was as pure and transparent as crystal. The waters were silent, but they ran deep. The predominant traits of his character and the controlling forces of his conduct, it always seemed to me, were justice, charity, and truth. Judicial in his moral as well as in his mental temperament, no considerations of expediency or self-interest marred the spotless integrity of his life. From this characteristic it followed that it was impossible for him to be a partisan, or that his patriotism should ever be a thing to be made or marred by popular clamor. Generous but unostentatious in giving, as in every other act and habit of his life, he likewise illustrated that rarer and higher form of charity, which thinketh no evil. Detraction never fell from his lips, and to envy he was as superior as to falsehood. In these respects he seemed to dwell upon a serener height and to breathe an untainted air. He was incapable of uttering or acting any thing which he did not mean, and therefore, in his case, when he did speak, it was speech, rather than silence, that was golden. Some men we honor for the prompt indignation with which they would repel and rebuke a dishonest suggestion. Others there are, and have been, to whom it is impossible that such a suggestion could be made. Judge Curtis, I think, was one of these. The wonderful precision and accuracy of his mental operations, I cannot but believe, were due in a large measure to the singular rectitude and force of his character. No baser metal thwarted its action, or caused the magnet to deviate from the pole. In contemplating the character of Judge Curtis, no one can fail to be impressed with the beautiful contrast presented by the rich diversity of his great intellectual gifts and attainments, and the absolute simplicity and unity of his moral nature. In him was exemplified that contradiction of traits which inspiration has depicted as the highest type of manhood,— in understanding a man, in malice a child. In recalling that illustrious career at the bar and upon the bench, we are at some loss to determine in what department of jurisprudence he was most accomplished or most distinguished. Superficial in nothing, he seemed in turn to be equally master of each. As he threaded his way—which he made luminous at every step—through the intricate mazes of some complex patent cause, it seemed for the time as if this certainly was his forte and province, pre-eminently. But then again his mastery of commercial and maritime law was complete, and he could expound and apply each with a practical sagacity and facility which one might suppose was due only to an experience that had been gathered in the counting-room and upon the

quarter-deck. At the same time there was apparently no exigency in human affairs, arising from accident, mistake, or the frauds of men, for which his thorough familiarity with the principles and spirit of equity jurisprudence could not find some relief. Above and beyond all these, summoned, as he frequently was, to deal with the graver and grander problems of constitutional and international law, he, of all others, by the precision of his statement, the vigor of his logic, the repressed fervor of his convictions, and the elevated tone of his simple eloquence, called back for a while the now departed glories of Marshall and of Webster.”

Remarks of Mr. Cyrus Cobb: “I am impelled to speak for the younger members of the bar. It was remarked at the former meeting, held immediately after his death, that to many Judge Curtis seemed cold and distant. An undoubted test of an elderly man’s heart is the estimation in which he is held in the hearts of young men; and in this regard I would bear testimony in behalf of the young men, whom I, on a recent occasion, had the honor to represent in connection with Judge Curtis. Last June the first reunion of the Alumni of the Boston University School of Law occurred. In preparing for this event, the members of the Alumni sent invitations to the various members of the faculty, with the request that they respond to toasts to be given at the meeting. Judge Curtis, though one of the faculty, had never been able to officiate as such; hence no personal relations had arisen between him and the students, and they viewed him as one who could hardly be approached. At their request, however, I waited upon Judge Curtis, and made known their desires. He, with peculiar and unexpected urbanity, expressed his regrets that



he could not grant their request, explaining that he had been forbidden by his physicians to expose himself to the night air, on account of a disease of the throat from which he was then suffering. I reported the result of the interview to my fellow-students. Then the suggestion was made that a note from Judge Curtis, to be read at the reunion, would be very highly prized, and the wondering query was expressed whether he would be willing to write such a note. I consented to wait on Judge Curtis again, with this object in view. I did so, and the response, which was in the affirmative, was gracious in the extreme. There was in both interviews, in which conversation was entered into by the deceased, a singular courtesy and kindness of manner, imparting an indefinable charm, which lingers with me still. The note was sent and read, and will be ever cherished by the Alumni. I would further say, that so strongly was Judge Curtis's largeness of heart impressed upon my own, I felt, when I heard of his death, as if some respected relative had departed, whom I had known and revered for years."

Remarks of Hon. Charles Levi Woodbury: "I had intended, Mr. Chairman, to have refrained from saying anything to-day, coming here simply to listen; but I cannot forbear to add my tribute to the memory of one whom I had known for nearly thirty years, and whose progress I had watched with admiration and esteem. When Judge Curtis came to the bench of the United States it probably was accompanied with the unanimous consent of all the bar of the circuit that he was the most fitting man to fill the seat then vacant. Before he left the bench it became my duty, as district attorney, to watch the proceedings of the court, and I can therefore cheerfully bear my testimony to those merits which have been acknowledged on all sides. There is one thing in Judge Curtis's personal character which has been hardly dwelt upon as much as it should have been, and that was that beneath the cold exterior, beneath the calm and regulated manner, there was borne a heart as warm and generous as any man could desire to be the possessor of, true in its instincts, and firm in its resolves. I have known him, in cases where he had thought the judgment had fallen too hard upon his client, to turn and relinquish every dollar of his fee, in order to soften the adverse blow, and that, too, without a word, without any open demonstration, and probably without anybody knowing it except myself, his book-keeper, and client. With such knowledge of his personal character, I think no one can fail to believe, as I believe, that Judge Curtis filled out the accurate calibre of a man, in all its fullness and fairness. Of the great loss his death has caused to the profession, to the bench, and to those who unfortunately are involved in litigation, none can refrain from admitting. I have no more to say than this, but I have said it simply to add one single point to the well-merited eulogies given by the members of this bar."

Remarks of Mr. Causten Browne: "Mr. Chairman,—I beg the indulgence of the bar while I add a few words to those expressions of respect and attachment with which we are now, as a body, taking leave of our late distinguished associate and friend. I am sure

we should all be willing to lengthen out the minutes of this hour, the Just in which we, who knew him well, knew him as a class better than any other men did, can speak here to one another of those qualities which we most loved to contemplate in him while he lived, and shall most love to remember in him now that he is gone. We are in no danger of being immoderate in our speech. None of us ever knew a man whose memory would more reproach us than his would do, if for any cause we should fall into exaggeration or extravagance in what we have occasion to say. In regard to the character and the foundation of Judge Curtis's professional fame, I wish to make but one remark; and that relates to the completeness of his equipment, intellectual and moral, for the work of his life. It might not be difficult (it certainly would not be easy) to find a man with as fine a natural capacity for the acquisition and digestion of legal learning as he had; or a man as comprehensively and exactly read in the law as he; or a man having his knowledge of the law as perfectly in hand for use on the 'occasion sudden' as was his; or a man of like power of legal reasoning, illustration, and expression; or even a man with the same exquisite habit of mind, always calm, always vigilant, always ready. But to find a man who had all these possessions combined, and thus to make good the loss which this bar and the bar of the nation has sustained, would be a very difficult task indeed. I believe that the depth of the impression which he made as a lawyer upon the minds of his time was not so much owing to the degree in which he possessed one or more of the cardinal qualities I have mentioned as to the fact that he possessed them all, each in first-rate degree, and all in perfect balance and proportion. A young man, coming a stranger into a large and strong bar like this (as I did In the year 1853, when Judge Curtis had just gone upon the bench), is apt to be deeply impressed by the marked manifestation on the part of the bench of certain moral qualities, which others, not so anxiously situated, might take for granted; and it is of some of these qualities, very conspicuous in Judge Curtis, that I wish to speak. He was a very patient judge. I suppose he thought that it was as much a judge's duty to be patient as it was to be learned, and that his possession of much learning did not excuse him from the obligation of patience towards those who had less. And, in his case, I early observed that whatever encouragement or exhilaration a young advocate might miss in the frigid and reserved and distant manner which was maintained by the bench, was more than made up by the steadiness conferred upon the speaker by the quiet and courteous attention with which he was listened to from the beginning to the end of what he had to say. If a young advocate happened to be making bad work of it, he was at any rate not helped downward by the slightest manifestation of weariness or vexation from the bench. He was a perfectly impartial judge. If we are to speak of this trait in its highest aspect, we cannot do better than to apply to Judge Curtis the language which he himself applied to another distinguished jurist of this bench (I mean—and I delight in this brief opportunity of doing him honor—Mr. Justice Sprague) on the occasion of his retirement

from judicial life: The bar have found in you that absolute judicial impartiality which can only exist where an instructed and self-reliant intellect is joined to a tender and vigilant conscience and a firm will. Not a word can be spared from this definition. It was all true of Judge Sprague. It was all true of his judicial comrade, Judge Curtis. We may assume now that all judges mean to be impartial, as it is here defined. But it is not possible that all, or more than a very few, should have an intellect at once instructed and self-reliant, a conscience at once tender and vigilant, as well as a firm will; and without them all, it is most true that absolute judicial impartiality, to be useful to the world as well as meritorious in its possessor, cannot exist. He was an absolutely independent judge,—independent not only in conduct, so that in his judicial seat he neither feared nor favored any man, but by natural sentiment, so that he could be and was single-minded, having no ends, large or small, to accomplish, outside of and apart from the great end of doing justice. He had an ambition, of course, to command the respect of his contemporaries, and to make himself a lasting reputation as a wise and learned judge; but he had no judicial ambition beyond this. How he would appear, what people would say, how his or anybody's personal feeling would be affected if he decided thus or thus, were thoughts of which he was simply incapable. He was that kind of man that could not lower himself to entertain such considerations. The result of the possession and steady exercise of this principle or instinct of independence was to make the administration of the law in his court profoundly respected. Patient, impartial, independent, possessing these three qualities in absolute perfection, he might have been much less able and much less learned than he was, and still have been a judge whose time we could look back upon

with pride and gratitude. After Judge Curtis's return to the bar, I enjoyed frequent professional intercourse with him, mostly as his colleague; and it was in this relation of senior counsel that I find much to remember with peculiar interest and admiration. It was here that the characteristics I have mentioned, of his holding his power calmly in reserve and letting it forth in full strength at the instant it was called for, and his having his learning always ready in hand for use as the occasion sudden might require, made him so supremely valuable to a junior associate. He was patient and courteous in consultation with him; generous in giving him his opportunity in the trial or hearing of the cause; considerate and forbearing towards his mistakes; ready, on occasion of his successes, with words of commendation, very few, very appropriate, and (it could never be doubted) perfectly sincere. Towards the court he maintained a dignified courtesy which was so perfect as to be a model. The principles by which he guided his conduct towards the court were the highest. He was incapable of abusing the trust which every court must put in its counselors. In matters pertaining to this trust, he walked in the light of a 'tender and vigilant conscience' as well as an 'instructed and self-reliant intellect,' and neither did, advised, nor permitted anything which did not at the time stand approved by that scrutiny.

"I would fain linger for a moment on one or two traits which marked Judge Curtis in his private intercourse with his friends. You can bear witness, Mr. Chairman, that none who did not know him at home knew him at all. He was indeed (how strange it seems to us who so knew him, that it should surprise anybody !) a very warm-hearted, tender-hearted man. He prized the affection of his friends. He relied much upon it for his enjoyment of life. It might be truly said of him that the friends he had, and their adoption tried, he grappled them to his soul with hooks of steel. He sympathized readily and tenderly in their distresses, and testified that sympathy by many and many an act, very fragrant in the memory now, but of which he never spoke. I must resist the temptation to dwell longer on such recollections. One more thought let me express before I take my seat. Others may have left as much, nay, in some respects, perhaps, more than he did, to command the admiration of us, the younger men of this bar; but no one has left us so much that we could safely and reasonably imitate. If we shall do so successfully, we shall do honor to ourselves and to our profession."

Remarks of Hon. Richard H. Dana, Jr. Mr. Chairman,—I had not the fortune to know Judge Curtis privately, well. I can therefore only speak as to that side of his character which was presented to the public. And everything has been so well said that I should not rise were it not that I am unwilling to lose an opportunity of at least attempting to express my own sense of what every one here feels. Seeing you, sir, reminds me of the first time I heard Judge Curtis, when he was at the age of thirty-three, in the trial of the great case of the overseers of the poor of Boston against certain proprietors of lands in the city. It was a great cause, from the amount involved, from the principles necessary to

be passed upon, and from the eminence of the counsel engaged in it, of whom I now recall, besides yourself, Charles Loring, Judge Fletcher, and Mr. Curtis, the youngest of the counsel. I mention it, because I know you will agree with me that he then made a deep and lasting impression upon the bar and the bench. It is no breach of confidence, I suppose, for me to say that at the close of one day's great debate, at Mr. Loring's office, where I was a student, one of the counsel said, 'That young man ought to be chief justice of Massachusetts.' Mr. Loring replied, 'There is no court in Christendom he is not fitted now to preside over.' This was a great deal to be said of so young a man, and by such an authority as Mr. Loring; but I do not think any large deduction need be made from it by those who have watched Mr. Curtis's career to its close. About twenty-two years ago, the bar, the political world, and the public were extremely excited by the fugitive slave trials. There was a strong tide setting for the conviction of the rescuers. I felt deeply on the subject on account of my political opinions, and as counsel in the cases. Judge Curtis presided. I regretted deeply the conclusions to which he had arrived on the law. I knew he would conduct the trials with impartiality. What I now wish to say is that I felt then, and have felt ever since, that there was in the conduct of those trials more than passive impartiality. There was, on his part, an affirmative determination that the trial should be had with absolute fairness. At a critical stage of one case, he volunteered a suggestion in favor of the accused as to the weight of testimony, which, I think, in the measuring cast, secured the verdict of acquittal. And they who remember how things then stood at Washington in those days will see the force of the suggestion that Judge Curtis had not been confirmed by the senate, but was acting upon an executive appointment, made during a recess of the senate.

As I knew but little of Judge Curtis privately, I can only speak of him as his constitution and I temperament were a kind of study to a spectator who respected him as much as I did. I think I am I not wrong in the belief that from the earliest he exercised over himself an extraordinary command, and enforced a constant mental and moral self discipline. I think, perhaps, we may say that in the smallest matters and in his social relations he held a kind of court within himself, and weighed evidence and settled the principles applicable to the case, before he allowed himself to express an opinion, or say anything that might affect the rights or feelings of any man. An exaggeration was to him an untruth, and he would have felt, himself dishonored if he said more than was necessary at any time on any subject. Enough, perhaps, I has been said already on the subject of Judge Curtis's precision and conciseness. It would be presumption for me to pass judgment upon his higher powers, his instincts or his qualities as a jurist, but I certainly may express the admiration I felt, I beginning with the trial I have spoken of, for his power of condensed statement,—a power which none could appreciate so well as those who had prepared themselves upon the same subject. And whenever I have heard Judge Curtis

state his propositions on a subject which I had myself made a matter of study, I listened to it with something of that surprise and delight with which one who has labored through the slow and repetitious processes of arithmetic sees his work done before his face by the methods and signs of algebra. I think, though relative criticism is rarely well, it would be no disparagement to the members of any bar in America to say that for condensed statement he has not left his superior; and, brethren, speaking of our own bar, were it not that the presiding officer of this meeting is still active among us, we might safely say that in that respect he has not left his equal.”

At the close of Mr. Dana’s remarks, the report of the committee was unanimously adopted.

Circuit Court of the United States. District of Massachusetts. May Term, 1874.

Present: Honorable Nathan Clifford, Associate Justice of the Supreme Court of the United States, Assigned to the First Circuit; Honorable George F. Shepley, Circuit Judge of the United States, First Judicial Circuit; Honorable John Lowell, District Judge of the United States District of Massachusetts.

The district attorney addressed the court as follows:—“May it please your honors,—When the sad intelligence of the death of Judge Curtis, coming over the wires, was announced to the court upon the day of his decease, Mr. Justice Shepley, who was presiding, at once directed the court to be adjourned. Upon the day of the funeral the court also adjourned, that the members of the bar might attend the services, and that they might hold a meeting to take such action as should be deemed proper upon the occasion of his decease. That meeting was attended in unusual numbers by members of the bar from every district

in this circuit, and from other districts, all profoundly penetrated with undissembled sorrow at the death of their distinguished brother, leader, and friend; and eminent counselors from the great metropolis gave utterance to their common sympathy with the members of this bar and the profession everywhere at the great loss which the country had sustained in the death of Mr. Curtis. At that meeting a committee was appointed, to report at an adjourned meeting the sentiments of this bar upon the occasion of the death of Mr. Curtis. That adjournment has been held this morning, and the expressions of the sentiments reported by the committee were adopted; and in accordance with the custom of this bar, the attorney of the United States has been requested to present them to the court, and to ask to have them spread upon its records. In compliance with this request, and also moved by the deepest admiration for the unsurpassed ability and attainment of the deceased, as a lawyer, judge, and jurist, and with the highest respect for his professional, judicial, and personal character, I respectfully request of your honors that these expressions of the sentiments of the bar, after they have been read by the chairman of the committee, may be extended upon the records of the court.”

Hon. Benjamin F. Thomas, chairman of the committee of the bar, read the expression of the sentiments of the bar, as reported by the committee and unanimously adopted at the bar meeting.

Mr. Sidney Bartlett addressed the court as follows:—“May it please your honors,—The resolutions drawn up and presented by the chairman of the committee express in a truthful and I think not exaggerated form the estimate in which Judge Curtis was held by his associates of this bar. It is now forty years since he removed to this city and began here his professional life. During nearly that entire period, relations the most friendly, perhaps I may say intimate, have subsisted between him and myself. I cannot, therefore, suffer him to pass away without uttering my vain regrets, nor without briefly stating some of the features of his mind and character by which he won and deserved the great eminence to which he attained,— the profound respect and regard in which he was held. To those who hold that intellectual qualities are usually to be traced to a preceding generation, I have too scanty means to furnish information. That he was the son of a mother of great intelligence, and of the highest womanly virtues, is known to me; and among his collateral kindred was one, recently departed, who, in addition to his many other virtues and accomplishments, stood among the foremost in the field of letters,—the author of the ‘History of Spanish Literature.’ Of his earliest training nothing can be known beyond the circle of his home; but his life in college gave token of his high faculties, and his career in the law school at Harvard, under the charge of the learned, acute, and able Ashmun, drew the attention of his instructor and of his classmates, and led to the firm anticipation of his future success. So much by tradition was known of Judge Curtis by his brethren when he became, in 1834, a member of this bar; and from that period until his death he has

walked before us, his conduct and qualities are personally known to us, and we can speak of them truthfully with such discrimination as our recent loss and the deep regard in which we held him permit. As the result of this retrospect, I feel confident it may be said that the great distinction attained by Judge Curtis was in his mastery of the common law. I do not mean to say that with a mind so wide as his, and filling the great judicial position he did, he failed to become familiar with the rules and principles of equity jurisprudence; nor that, like some admirers of the common law, he held that admirable system in disesteem. Whoever will peruse his recorded judgments will find how thoroughly, when the occasion arose, he mastered, and how acutely and comprehensively he applied, those principles; but, if I mistake not, he may also find slight though not disfiguring traces of a mind thoroughly imbued with the principles of the common law, and which that common law had moulded. In this, his favorite science he had among us no superior and but few equals. But legal scholarship, however wide and thorough, might, without the addition of his other marked qualities, have limited him to the life of an author and a student; furnishing, through his pen, thoughts and principles, the weight and value of which, in their practical application, must be found and wrought out by others. Had he lacked the power of giving weight to his words by the mode of their utterance, he could hardly have attained distinction at the bar; but he added to his other learning a familiar acquaintance with the beauties and the strength of the tongue he spoke, and from them he formed for himself a style of surpassing simplicity and power. The clothing he thus gave his thought, striking as it was, would, with the thought itself, have failed of its true effect, if he had not added to it a clearness of statement and a rigorous logic that I have rarely known to be excelled. Quick in his perceptions, he had also a power of memory which was almost wonderful. I recollect to have heard him state that when he had finished the study of Stephen on Pleading, he found himself able, without recurrence to the book, to state in their order every proposition it contained. It is possible that his severe training in the common law may be supposed by some to have made his mind too highly technical; but if this were so, it would be difficult to point out an occasion where in professional or judicial life it effectively obscured his vision of the right, or narrowed the breadth of his view. We are too near the period of the nation's great struggle to expect a uniform concurrence in the estimate to be formed of Judge Curtis's merits as a student and expositor of the constitution. It has sometimes been said that sound and broad views of constitutional law require in addition to the powers of a jurist those of a statesman familiar with the actual administration of the government, as well as a thorough knowledge of its early history. Judge Curtis held no political office except for a short period when he was a member of the state legislature. He took no part in what is usually termed the administration of the government, state or national; but wheresoever, in civil controversies, he was called on to determine the rights of parties to property or estate under the constitution, it is be-



lieved there is a complete concurrence in the estimate of the strength and soundness of his views. Whatsoever may be the difference of opinion as to the merits and conclusiveness of his arguments or judgments on questions of constitutional law, involving political considerations, few, I think, can peruse his address to the senate, in the case of the impeachment of President Johnson, and his admirable judgment in the Dred Scott Case, without conceding that he had thoroughly studied the constitution, was familiar with the history of our governments, state and national, and that on the powers he exhibited on both those occasions may well be rested his reputation as a constitutional lawyer, a jurist, and an advocate. I have thus stated to your honors the estimate in which the character, capacity, and learning of our friend, as a lawyer, whether exhibited at the bar or on the bench, must, I think, be held by those who knew him. With what clearness, vigor, courtesy, and fairness these faculties were applied at nisi prius is known to us all. No counsel or client could have ever left his court, whatsoever might have been the issue, without feeling assured that his cause had been disposed of ably, carefully, and without bias.

“As a citizen, as a man filling the relations of domestic and of social life. Judge Curtis was, I think, less widely known. Not that he held aloof from affairs of public interest, nor that he failed to form and to express to those who sought them, his views and judgment upon the important events, or questions of his day; but he had an inherent disinclination to be publicly and actively engaged in giving effect to the results of his careful thought on public topics, and contented himself with communicating and discussing the same with those with whom he was familiar. Of his bearing and the mode in which he filled the relations of private life, it is difficult for me to speak measuredly. It was obvious to those who knew him best that his.

whole life was a life of discipline. Grave almost to a fault, unless life is to be exclusively devoted to serious purposes, he yet carried with him a heart capable of the widest and most generous sympathies, but which was careful not to suffer itself to be led astray by false or exaggerated sentiment. Thus constituted, he carefully fulfilled the duties of life, but not to the exclusion of cordial and intimate friendships, the memory of which will be a melancholy pleasure to many beyond the professional circle. A few lines occur to me at this moment which admirably, I think, sum up the character of Judge Curtis:—

‘Though deep, yet clear; though gentle, yet not dull; Strong without rage; without overflow, full.’

“May it please your honors,—our associate is lost to us. The ranks close up. In the firm step and manly bearing of the column which presses on may be had the assurance that soon other talent, other learning and discipline, will be found to scale the eminences of the law; but to those who, side by side with him, have been so long engaged in the contests of the profession, may be permitted the trite, melancholy, but not thoughtless exclamation, ‘We shall not look upon his like again!’ “

Reply of the Court: Mr. Justice Clifford replied to the address of the bar as follows:—“Gentlemen of the bar,—Of all the lessons of life, the most solemnly instructive is death, as the lesson of death accords, in its teachings, with the substance of the divine admonition that the great aim of man here should be to prepare for his own well-being in the life to come. Bereavements which sever even the dearest ties of love and friendship are of constant occurrence, and they should admonish the bereaved that it ‘is not all of life to live, nor all of death to die,’ as man should live to fulfil the law of his Creator; and to promote as well as he may all the great ends of his being, and should never forget that his works will follow him into the spirit world. Admonitions of the kind have more than once, since the presiding justice came into the court, been addressed to the members of this bar, when they, as now, have been called to mourn the loss of some one of the most eminent and highly esteemed of their present or former associates. Experience shows that none are exempt from the sentence, as it applies to the whole human family without regard to station, attainment, or usefulness. Your most polished and eloquent orator bowed to the inexorable doom, within the period mentioned, while yet in the midst of his usefulness, and the great magistrate of your state obeyed the dread summons only a few years later; and, more recently, the great philanthropist of the country, who at one time was the reporter of the decisions of the most learned judge who ever presided over the deliberations of this court, followed his eminent patron to the grave. Webster also is gone, though he died at an earlier period, and yet the demands of the destroyer are not satisfied. Such vacancies unquestionably served to weaken for the time the power and influence of your circle, but it still embraced one of the eminent leaders of the American bar. Better evidence need not be required than is exhibited in the assemblage here convened, that death

has again invaded your ranks; and the appropriate resolutions presented in behalf of the bar announce, what was but too well known before, that you are now called to mourn the loss of your distinguished leader, of whom it may be properly said, he had no living superior at the American bar. Equals, undoubtedly, he had, who still survive to honor and adorn the record-roll of the legal profession, yet it may nevertheless be safely affirmed that your deceased brother had no living superior practicing in the federal courts, without fear of contradiction from the bench or bar. You have assembled to express your sorrow for the loss which the bar of this court, and of the country everywhere have sustained by the decease of our lamented brother, and to pay appropriate honors to his memory, and the court is here to mingle their sorrows for the great bereavement with those of the bar, and to unite and co-operate with the bar in such proceedings as they may deem it proper to adopt on the occasion, and to comply with their request that their proceedings may be entered in the records of the court. Death having removed from your circle, and from the extended sphere of his professional employment, an associate so distinguished, and with whom you have so long maintained such intimate social and professional relations, it is eminently fit and proper that you should pause in the midst of your usual avocations, and give public expression to your sense of the great loss you have sustained, and to the profound respect and veneration you entertain for the private virtues and distinguished professional services of the eminent jurist whose earthly career is now closed for ever. Influenced by such considerations, the court cordially approves the resolutions presented in your behalf, and unhesitatingly assures the members of the bar that they do heartily unite with them in responding to the sentiments which the resolutions so appropriately express. Such a manifestation of the sense of the great loss which has been sustained by the decease of our esteemed brother is no more than what is fitting on the occasion, and entirely accords with our own views and feelings upon the subject. More than forty years have elapsed since he commenced his career at the bar, and yet it may not be amiss to remark that he came into the legal profession without any deficiencies to supply in his preparatory education, and that the history of the time shows that he entered at once into a successful and remunerative practice.

“Competition at the state bar was, perhaps, never greater than at that period, as the ranks of the profession were filled with men of great legal learning, erudition, and experience, but all admit that he was eminently successful in every point of view which evidence’s the rising prospects of the younger members of the profession. Day by day his reputation as a sound lawyer and successful advocate increased throughout the whole period of his professional life which preceded his elevation to the bench of the supreme court of the United States. Years before that event occurred he was second to none of his associates, except the great leaders of the bar, such as Webster and Mason, all of whom, with one accord, upon the decease of the late Mr. Justice Woodbury, joined with

the other members of the bar in presenting his name to the president, to fill the vacancy created by the decease of that distinguished jurist. Appointed to that bench, as it were, by common consent, and carrying with him into the court the fruits, not only of his excellent early training, but of the untiring studies of his riper experience, his success in that new and responsible sphere of duty was not a matter of surprise to any of his old associates, as all well-informed persons knew that he possessed good health, and an active, vigorous, and logical mind, well stored with legal knowledge and erudition, as the fruits of patient industry and long and active experience at the bar; nor were the public expectations disappointed, as the result showed that he was able to meet every demand upon the station, whether it had respect to the performance of the varied and responsible duties it imposed, or to the dignity of the office, or to the elevation of the individual character of the incumbent. Throughout the comparatively brief period of his judicial life, his opinions delivered in the supreme court are published in the volumes of that period, which also contain the opinions delivered by all his learned associates, and it is no more than just to say that his opinions compare favorably with the opinions delivered within the same period by the other members of the supreme court. Considered as a whole, they are characterized by a clear statement of the facts of the case, and by an accurate application of sound principles of law to the well-ascertained state of the case. Consequently his judgments remain undisturbed, and” it would seem, must ever remain as safe precedents and correct expositions of law, as applied to the cases then before the court. Two volumes of his opinions, delivered in the circuit court, have also been published, and those decisions are everywhere admitted to be of great value to all whose duty it is either to discuss or decide legal or constitutional

questions. Complete success attended him as a judge in the performance of all his duties while he remained on the bench, and many of his friends were much disappointed when he resigned his seat to resume the practice of the profession which he relinquished when he accepted the commission of associate justice of the supreme court. Deep regrets undoubtedly were felt by many at his decision, but no one ever questioned his right to resign, and pursue a more lucrative employment, as the compensation of a supreme court judge at that period was quite small when compared with the remuneration which a jurist of his acquirements and experience might reasonably expect to receive from a full practice. Friends left behind him know full well that he more than once remarked that it was the duty he owed to his family that induced him to resign, which is certainly a motive that all are bound to respect. Eminently successful though he was as a judge, it is nevertheless true that his highest eminence and widest reputation were acquired in his forensic displays as a lawyer and advocate, and in one respect his reputation derived from that source is as peculiar as it is exalted and resplendent.

“Other living examples of the kind there are, but they are few, where a judge of a high court has been able to leave the bench and resume the practice of the law, and find himself able to win new professional honors beyond what were accorded to him before his elevation, and to secure and retain for a long period a much increased and greatly more lucrative practice than he enjoyed before he accepted the station from which he subsequently retired. Instances are certainly more frequent where the retiring judge, though he left the bench with high expectations of renewed professional success, has either fallen a prey to some lurking disease, and become incapable of protracted mental exertion, or lived to find that all his hopes of professional preferment were vain, and finally to linger out an existence rendered unhappy by chagrin and disappointment that younger men than himself have succeeded to the fruition of the hopes which induced him to withdraw from the bench, and return to the profession from which he had been promoted. Nothing of the kind occurred in the case of our deceased brother, as all will bear witness who were in a situation to see and know what took place. Instead of that, old clients hastened to offer new retainers, and new clients flocked in the same direction, securing to the new applicant for professional employment, in a brief space of time, more important and remunerative engagements than he ever represented before he was promoted to the high place from which he voluntarily retired. Such peculiar events in the history of a professional man evince beyond controversy that the individual in question possessed unusual qualifications to serve the interests of those who with such alacrity and spontaneous concurrence hastened to engage his professional services. Nor was that impression a fanciful one, for his forensic power in the discussion of questions of law and constitutional questions, as they arise in controversies between party and party, were scarcely ever surpassed, especially in cases where law and fact are both in dispute. Beyond all doubt he was a

good jury lawyer, but his highest eminence was acquired in the discussion to the court of mixed questions of law and fact, as he never failed to exhibit the whole substance of the case in such a concise, clear, and, at the same time, comprehensive form that the tribunal addressed, seldom or never found much difficulty in determining that he was either right or wrong in his view of the case; and if right, it almost invariably followed that his client was entitled to prevail, for he never intended to ask the court to apply to the case an unsound legal or constitutional principle. Though uniformly faithful to his client, he was, nevertheless, true to the court, and never, for the sake of success, would consent to exert his forensic power to subvert sound principles of law, to mislead the court, or to confound the rules of right between man and man. Skillful advocates in such cases have often appeared here and in the supreme court, but none are remembered, within the period mentioned, who excelled our deceased brother in dealing with large masses of complicated testimony, where it became necessary, in the opening of the case, to present a summary view of the whole in a succinct, clear, and at the same time sufficiently comprehensive form to convince the tribunal addressed that it embraced the whole substance of the principal matters in controversy between the parties. Such a statement, if made orally, in order to be effectual, must be comparatively brief and always clear, and it must be just, and embrace the substance of the matters in controversy, else it will fail to be convincing; but if it possess all of those requisites, it is oftentimes the best argument which can be addressed to a court. Success was often won by the subject of these remarks by such efforts, for which the character of his mind, aided by his great experience, was strikingly fitted. Much of his success in the great controversy as to the title of the quicksilver mine, in which he was opposed by one of the most effective advocates of our country, was due to the exercise of that high faculty of his mind. Beyond all doubt it was the effective and masterly opening statement made by the deceased in the great impeachment trial that contributed very largely to give his distinguished associate an easy and triumphant victory in closing the case for the accused president. Examples of the kind almost without number might be given in which his success here and in the supreme court was due in a great measure to his superior power and skill in stating the case, but the occasion is not one for any such details. Logical force; clearness, and precision, and a ready perception characterized his intellect, as evidenced by his judicial decisions and by all of his forensic efforts at the bar. His rule, it is understood, was, before he entered upon an argument, to learn the whole substance of the material facts, which he did by consultation with his client or his associates, or by his own personal study of the record, without which not even his wonderful power of statement would have been of much avail, as it is difficult for an advocate to explain to the court what he himself does not understand. Having mastered the facts, his own reflection, aided by the inexhaustible stores of legal knowledge which he possessed, enabled him to accomplish the rest without much additional preparation, as

he was able to see almost at a glance the legal weight and significance of every well-ascertained fact in the case, whether considered separately or as a whole. Instructive examples are remembered when, at the outset, he compressed the facts of the case into a statement so concise that it could not be forgotten, and yet so just, forcible, and exhaustive that it really left little occasion for further elaboration or enlargement of the argument. He seized, as it were, intuitively, the salient points of the case, which, in the clear illumination of his extensive learning, usually impressed the tribunal addressed with the conviction that the points made by him deserved consideration, and in doing so he uniformly dismissed all minor matters, and bent the whole energies of his mind to the propositions of law and fact which he believed should decide the controversy. Few men were better able to define a doubtful constitutional provision, or to interpret correctly an ambiguous statute, or to analyze a confused record, or to explain a complicated machine, or to ascertain the exact question presented in an agreed statement, or the precise effect of an obscure or intricate pleading, or the true construction of the conflicting and uncertain provisions of a written contract, deed, or will. Experience had made him familiar with every branch of jurisprudence, whether common law or equity, commercial law or admiralty, patent law or the law of insolvency and bankruptcy, and his experience as a judge, and his long practice in the federal courts, had also made him familiar with the law of prize, and the law of nations.

“Probably he never had much practice in criminal cases, but his reported decisions rendered in the circuit court during the six years he was in commission as an associate justice of the supreme court, fully justify the remark that he was also familiar

with the criminal law, as well as with every branch of civil jurisprudence. Clearness, brevity, force, and good judgment characterized all his forensic efforts in the discussion of matters of fact or issues of law to the court. His address was dignified, calm, and thoughtful, and he never failed to impress the mind of the tribunal addressed that his propositions were entitled to weight, by the justness and logical force of his arguments, which were expressed in language so pure and appropriate that his sentiments never needed the adjunct of fervor or impassioned appeal to make his remarks effective, for the reason that neither fervor nor appeal could add anything to their force. Artifices he never employed, nor would it have been appropriate, as his power of reasoning was sufficiently great to render any appeal to sympathy, prejudice, or feeling quite unnecessary, and he seldom indulged on any much course of remark. But it is a mistake to suppose that his arguments were devoid of warmth and earnest conviction. On the contrary, occasions are remembered when, under the weight of heavy responsibility, and impelled by strong convictions, he, as it were, involuntarily gave utterance to passages of deep solemnity and impressiveness, which showed that he possessed a cultivated imagination as well as great logical resource. Marked success attended him both as a justice of the supreme court and in all his career as an advocate at the bar, in both of which callings he was at times exposed to great responsibilities. Few examples there are where a judge has been compelled to assume a greater responsibility than was devolved upon the distinguished jurist, whose death is the occasion of these observances, when he was constrained by a sense of duty to dissent from the majority of the court in the great case which was decided during the last term he ever sat in the supreme court bench. Judges and jurists may differ in opinion whether he was right or wrong, but all must agree that he acted from a sense of public duty, and that he vindicated his conclusion by an ability and a course of reasoning rarely ever surpassed. Courage is well-nigh as essential in a judge as in a military commander, and all must admit that the dissenting judge showed by his course on the occasion referred to that he was prepared to go wherever conscientious duty pointed out the pathway. Responsibilities of an unusual character were also assumed by him when he engaged to assist in conducting the defence of the president.

“Public men differed widely upon the subject, but no one who ever read the record of his masterly opening statement of the case will deny that he met the whole matter of the accusation in the most fearless manner, answering every part of the charge by a clear statement of the facts, and by a sound exposition of every legal and constitutional question involved in the case. Never, perhaps, did the great qualities of his mind shine brighter than on those two occasions,—the one showing his high qualifications as a judge, and the other his unrivaled powers as an advocate. It seems almost superfluous to speak of the character of our deceased brother, as all admit that it was spotless, and that he lived a life of uprightness and purity from his youth to the moment when he yielded up his spirit



to the great Creator. Except for a brief period, his whole professional life has been spent here, and it must be gratifying to his immediate friends to know that all those who have known him most intimately are the freest to admit that in all their intercourse with him he was always actuated by a strict regard to what was right, and by a faithful adherence to every professional engagement. Such a vacancy creates a great void, which is deeply felt by the court as well as by the bar. Many years of intimate relations had endeared him to the court as an example of high professional honor, and as a friend always to be trusted without fear that any confidence reposed would ever be misplaced. Our loss, my brethren, is great; but the loss of his family is much greater, and to them we tender our sincere sympathies. Pursuant to the request of the bar. it is ordered that the resolutions presented in their behalf, and the proceedings of the bar, together with the remarks made by the members of the bar in their support, and the remarks of the court, be entered in the record, and the court stands adjourned until to-morrow morning at ten o'clock."

DAVIS, DAVID.

[For brief biographical notice, see 30 Fed. Cas. 1309.]

The following proceedings upon his retirement from the bench are reprinted from 7 Biss. 15:

Hon. David Davis, justice of the United States supreme court, assigned to this circuit, having resigned his position on the bench of that court, for the purpose of filling the position of United States senator, to which he had been elected by the legislature of the state of Illinois, the members of the bar within this circuit took early occasion to express their sentiments toward the retiring justice.

Action of the Chicago bar: The Chicago Bar Association, at their regular meeting, passed the following resolutions: "The Honorable David Davis, one of the justices of the supreme court of the United States, after a service of more than a quarter of a century as judge of the circuit courts of Illinois, and of the federal courts, having recently retired from judicial life, the Bar Association of Chicago think the occasion fitting and proper for an expression of the sentiments of esteem and personal good will, entertained by its members, in common with the bar of the country, toward him. During his judicial career no member of the legal profession or the community in which his courts were held ever questioned his integrity and honor. He has those clear perceptions and that keen sense of right which made his judgment of facts presented better than precedents, and enabled him to administer the law according to its spirit. In his service of more than fourteen years upon the supreme bench at Washington and at the federal circuits, he was distinguished among his fellow judges for intellectual strength, sound judgment, and ability to analyze principles; and his opinions are models of directness, brevity, and force. In laying aside his judicial robes for another field of service to his country, Judge Davis carries with him the respect, the confidence, and the affectionate regard of the legal profession of the country."

The following were the proceedings of the-southern Illinois bar:

Circuit Court of the United States, Southern District of Illinois, Thursday, July 12th, A. D. 1877.

Present, Hon. Thomas Drummond, Presiding Judge. Samuel H. Treat, District Judge.

This day comes into open court Hon. J. T. Stuart, who addresses the court as follows:

“May it please your honors: A meeting of the bar of this district and state was held in this court room on yesterday, in which almost every section of the state was represented, and to be remembered for its numbers and for the talent, learning, and reputation of its members; a meeting called to take action in relation to the retirement from the bench of Hon. David Davis. It was hoped and expected that the able lawyer, Hon. Stephen T. Logan, now venerable on account of his character and age, would perform the duty now devolved upon me of presenting to this honorable court and asking to be spread on its records these resolutions, passed by that meeting of the bar:

” ‘Resolved, that the members of the bar of the state of Illinois view with sensibility the retirement of the Hon. David Davis from the bench of the supreme court of the United States, and express their profound regret that the country is deprived of the benefit of his services in that distinguished place, which he has so long adorned by his learning, his industry, his urbanity, and his conscientious devotion to duty.

” ‘Resolved, that, in retiring from his eminent judicial station, he carries with him the confidence and high personal and professional respect and

regard of the members of the bar of the state of Illinois.

” Resolved, that a copy of these resolutions be forwarded by the chairman of this meeting to the Hon. David Davis, with an earnest expression of the hope that his future career may be as useful to his country and as honorable to himself as his past, while judge in the courts of the state of Illinois, and of the United States.’

“The resolutions are expressive of the opinions of the bar in regard to that distinguished citizen, and I can add but little to their force. David Davis was elected judge of the eighth judicial circuit of the state of Illinois in the year 1848, that being the first election for judges under the constitution of 1817, making the office elective. The eighth circuit was then composed of the counties of Sangamon, Tazewell, Woodford, McLean, De Witt, Champaign, Piatt, Macon, Moultrie, Shelby, Christian, Logan, Vermillion, and Edgar; a large circuit, and embracing a fair average of the intelligence of the people of the state, and of the talent of the legal profession. The election of Judge Davis, then a young man, in such a circuit, was no inconsiderable compliment; but it was a higher compliment that for the ensuing six years he discharged the duties of that office so well, that in 1854 he was re-elected without opposition, and again re-elected in 1861 without opposition in a circuit somewhat changed. Mr. Lincoln was no mean judge of human nature; he had practiced law at the same bar with David Davis from 1835 to 1848, and before him as judge for the twelve years prior to his election as president; and when he became president he appointed David Davis to the second vacancy on the bench of the supreme court of the United States. Judge Davis was a justice of the supreme court of the United States, and presiding justice of this judicial circuit from 1861 to 1876, a period long enough to test his capacity as a man and a lawyer. It would, perhaps be out of place for me, before your honors who have known him so long and well on the bench and in the conference room, to say how well he discharged the duties of that high office, the most important and dignified in the government; that from the time of his appointment to his retirement his capacity for judicial usefulness continued to grow and expand; that he administered the law and constitution faithfully, loved the truth and the right, followed fearlessly and boldly where his convictions pointed the way; that he was a just judge; that his retirement from the bench has been followed by the regrets of the profession and the country; and that, especially in the language of these resolutions, he carries with him in that retirement ‘the confidence and high personal and professional respect and regard of the members of the bar of the state of Illinois. In presenting these resolutions and confining myself to the judicial life of Judge Davis, I, perhaps, have said all that I ought to say; but I cannot refrain from adding, on my own account, that I have known David Davis intimately and well as a man and as a lawyer, and in his social relations, for these forty-two years past; and that in all these relations he is without a stain, and that in all he has been true to

himself, honest and honorable, and that, from all his past life, he may be safely trusted to do, on all occasions, only what he believes to be true and right.”

It is ordered, that the foregoing resolutions and the address of Hon. John T. Stuart thereupon, be spread upon the records of said court, and a certified copy thereof be transmitted to the Hon. David Davis.

Action of the Indianapolis bar: At the meeting called at the United States court room in Indianapolis, to take action expressive of the feelings of the bar, in regard to the retirement of Judge David Davis from the supreme bench, the following proceedings were had: Judge Walter Q. Gresham presided, and the Hon. John D. Howland acted as secretary. A committee on resolutions, consisting of the following gentlemen, was appointed: Hon. Joseph E. McDonald, Gen. Benj. Harrison, Judge S. H. Buskirk, Hon. Thomas M. Browne, Hon. J. D. Morris, Judge Sol. Claypool, and Hon. W. P. Fishback. This committee retired and shortly reported the following resolutions:

“The members of the bar of the courts of the United States in this district, in view of the voluntary retirement of the Hon. David Davis from the supreme court, and the bench of this circuit, respectfully ask this court to accept and place upon its records this testimonial of respect and affection for the great judicial officer who has withdrawn from this department of the public service. We have, for the last fifteen years, had personal knowledge of Judge Davis as one of the associate justices of the supreme court, and as the justice assigned by that tribunal to hold the courts of the United States in the seventh judicial circuit, and we have fully appreciated his learning and ability as a judge, and his fearless, independent, and impartial administration of justice. His knowledge of affairs, his intuitive discernment of character, his rapid analysis of evidence, however voluminous and complicated, his robust sagacity in detecting the vital facts in a cause, and his broad and masterly application of principles have stamped his judicial career as one of singular usefulness, and have furnished an example of judicial service which can never be forgotten by those whose privilege it has been to assist in it as members of his court. And it is not the judge alone whose loss we deplore. The man whose society we have enjoyed, and whose confidence many of us have shared, is dearer to us than the officer. His liberal humanity, his ready recognition of the rights and feelings of all with whom he is brought in contact, his indifference to merely accidental distinctions, his kindly interest in the young, his evident anxiety to search out and vindicate the very right of a cause, and his contempt for all arts, appliances and influences by which the mind may be diverted from the direct channel of justice, have enriched and ennobled his career, and will make its memory precious to us forever.”

Senator McDonald presented the resolutions. He referred to the time when Judge Davis came upon the bench as one particularly calculated to test the character of the man and the judge. Partisan strife ran high, and this had been intensified and embittered by

Civil War. But when Judge Davis assumed the bench the partisan was lost in the judge. From the beginning to the end of his judicial career he was never known to swerve from the path of official duty.

General Harrison referred to the rare success of Judge Davis in winning and retaining the respect of lawyers, litigants and jurors. His attainments and personal character compelled the respect of all with whom he had intercourse as a judge or as a man. As a judge he was unsurpassed; his powers of analysis were especially marked in the manner in which he dissected intricate questions of evidence, and the clear and comprehensive way in which he presented such to juries. It is the expectation of his friends that he will pursue the same independence and unswerving integrity of character in the new position to which he has been called, as he ever manifested on the bench.

Hon. A. G. Porter said that Judge Davis was distinguished for the strong yet simple honesty of his character. He was intellectually and morally honest, and in his personal relations he was always honest and straightforward. He said some one had described him exactly when he remarked that "Judge Davis was big all' over, intellectually, morally, and personally."

Hon. W. P. Fish back referred to the wonderful clearness and readiness of Judge Davis in grasping and analyzing legal questions. His was eminently a legal mind. He also referred to his rare social gifts, his kindness and simplicity of character. Hon. John Hanna, General Thomas Browne, Judge Buskirk, W. H. H. Miller, T. B. Buchanan and H. D. Pierce also made remarks, each paying tribute to the high qualities of Judge Davis as a judicial officer and a man.

The resolutions were then unanimously adopted and ordered spread upon the records of the circuit court, and a copy of the same sent to Judge Davis.

## DAVIS, JOHN.

[For brief biographical notice, see 30 Fed. Cas. 1369.]

The following proceedings are reprinted from I Story, 618:

“Within the period of time embraced by the present Reports, the Honorable John Davis, the learned and venerable district judge for the district of Massachusetts, resigned the office, which for more than forty years had been graced by his dignity and wisdom. Upon an intimation that it was his intention to resign, a meeting of the Suffolk bar was held on the 9th of July, 1841, at which it was unanimously resolved:

“That the attorney of the United States be requested, in the name of this bar, to make known to Judge Davis the high sense we all entertain of the importance of his judicial labors, which for so many years have exhibited varied and accurate learning, sound and discriminating judgment, unwearied patience, gentleness of manners, and perfect purity; and that Mr. Attorney be requested to express our heartfelt wishes, that he may find in retirement that dignified repose, which forms the appropriate close of a long and useful life, and to bid him an affectionate farewell.”

In accordance with these resolutions, Franklin Dexter, Esq., the district attorney of the United States, at the time appointed, rose and addressed Judge Davis as follows:

“May it please your honor:—By these resolutions I am requested, in the name of the Suffolk bar, to express to you their high sense of the value of your judicial labors, and their acknowledgment of the personal kindness, as well as the distinguished ability, with which they have been performed. This is, sir, to me a most grateful duty;— and yet I feel the difficulty of giving any adequate expression of the deep feelings of my brethren, without danger of offending the modesty, which, through a long life of usefulness, has adorned so many talents and so many virtues. I will not, therefore, depart from the simple but comprehensive language of the resolution in describing to you our general estimation of your judicial character and conduct. But let me assure you, sir, that these are not words of mere form, required by the occasion; but the sincere and spontaneous expression of the feelings and opinions of every member of the bar, and of this commercial community. It can rarely happen, that a judge, who is called upon to decide so many delicate and important questions of property and of personal right, should so entirely have escaped all imputation of prejudice or passion, and should have found so general an acquiescence in his results. It is not to be forgotten in the peaceful tenor of the present times, that your official career has been formerly marked with extraordinary difficulties. When you assumed its duties,—more than forty years ago,—before any of this fraternity had begun the active business of life,—the stores of judicial learning in that peculiar branch of the law, which you have been called most frequently to administer, were by no means so near at hand as at present;—then it was necessary *petere fontes*, and from those fountains your own decisions have, with those of your distinguished contemporaries in Europe and America,

drawn down the principles of the admiralty law within the reach of comparatively easy exertion. A few years after that time the system of commercial restrictions, adopted by the general government, threw this portion of the country into a state of unparalleled distress and exasperation. An abundant and overflowing commerce was suddenly checked in all its issues and enterprises, and the revulsion threatened to break down the barriers of law by which it was restrained. It was in the district court, and under your administration, that this struggle took place; and although juries refused to execute the obnoxious restrictions in cases, required by the constitution to be submitted to them, yet the supremacy of the law suffered no detriment in the hands of the court. Few of us can remember this *civium ardor jubentium*, but all can imagine, how painful a duty it was to be thus placed in opposition to the feelings and interests of this community. Perhaps I may be pardoned for recalling to the minds of the bar, in your presence, the beautiful language in which your own regrets were expressed, when you felt obliged to declare, that, disastrous as its consequences were to the country, the embargo was still the law of the land, and as such to be obeyed. I lament the privations, the interruption of profitable pursuits and manly enterprise, to which it has been thought necessary to subject the citizens of this great community. I respect the merchant and his employment. The disconcerted mariner demands our sympathy. The sound of the axe and of the hammer would be grateful music. Ocean, in itself a dreary waste, by the swelling sail and floating streamer, becomes an exhilarating object; and it is painful to perceive, by force of any contingencies, the American stars and stripes vanishing from the scene. Commerce, indeed, merits all the eulogy, which we have heard so eloquently pronounced at the bar. It is the welcome attendant of civilized man, in all his various stations. It is the nurse of arts; the genial friend of liberty, justice, and order; the sure source of national wealth and greatness; the promoter of moral and intellectual improvement; of generous affections and enlarged philanthropy. Connecting seas, flowing rivers, and capacious havens, equally with the fertile bosom of the earth, suggest, to the reflecting mind, the purposes of a beneficent Deity, relative to the destination and employments of man. Let us not entertain the gloomy apprehension, that advantages so precious are altogether abandoned; that pursuits so interesting and beneficial are not to be resumed. Let us rather cherish a hope, that commercial activity and intercourse, with all their wholesome energies, will be revived; and that our merchants and our mariners will, again, be permitted to pursue their wonted employments, consistently with the national safety, honor, and independence. From that time, sir, down to this most interesting period, when you are about to surrender the high trust, you have so long holden, it is enough for me to say, that the bar have felt undiminished confidence in the ability and integrity of your administration of the law, and that our filial respect and affection for yourself has constantly increased with your increasing years. And while we acknowledge your right now to seek the repose of private life, we feel, that your retirement is not less, than it ever

would have been, a loss to the profession and to the public. I am further instructed, sir, by the fraternity, to bid you an affectionate farewell, and to express to you their heartfelt wishes, that you may find in retirement that dignified repose, which forms the appropriate close of a long and useful life. May it be sir, sir. May you live long and happily,—as long as life shall continue to be a blessing to you; and so long will that life be a blessing to your friends and to society.”

Judge Davis was sensibly affected at this address, and it was some moments before he was able to respond. When he commenced his reply, the bar rose and gathered round the bench, while the venerable judge delivered the following address :

“Gentlemen of the Suffolk bar:—I receive gratefully and with deep sensibility your generous and kind expressions, communicated by a representative most justly entitled to that selection, and to whom I would tender my acknowledgments for his very acceptable performance of the duty, which it has been your pleasure to assign to him on this occasion. There are considerations, besides habitual taste and temperament, which would dispose me to meet the event of this day in silent soberness, with the full persuasion, which, I was assured, might be indulged, that our official relation would be dissolved with mutual friendly regards. But I yield to an arrangement, which is more consonant with your kind wishes, and in which there seems to be an obvious propriety and fitness. At all times, and especially in this place, we are bound to regard the fitness of things. Somewhat more than half of my life has been spent in the office, which I am now to relinquish.



With the members of this bar, and with their predecessors, I have had frequent, gratifying, and improving intercourse. Should I attempt to give expression to the recollections, which on this occasion arise rapidly and somewhat confusedly to my view, I could do it hut imperfectly. If a history of my time should ever be sketched, it must be with more deliberate preparation. Some reminiscences, however, seem due to the occasion; the indulgence is among the privileges of age,—a privilege, I hope, which will not be abused.

“The Suffolk bar, at the commencement of the present century, was not numerous, though even then, I believe, solicitous aspirants were heard to complain, that the profession was crowded. The whole number was but thirty-three; five barristers; twenty attorneys of the supreme judicial court, and eight of the common pleas. The barristers were James Sullivan, Theophilus Parsons, William Tudor, Perez Morton, and Shearjashub Bourne.

“Attorneys of the supreme court: Thomas Edwards, Jonathan Mason, Christopher Gore, Rufus G. Amory, Joseph Hall, Edward Gray, John Davis, Harrison G. Otis, Joseph Blake, Jr., John Lowell, Jr., John Quincy Adams, John Phillips, George Blake, Ebenezer Gay, Josiah Quincy, Joseph Rowe, William Sullivan, Charles Paine, John Williams, William Thurston.

“Attorneys of the court of common pleas: Edward Jackson, Poster Waterman, David Everett, John Heard, Charles Davis, Charles Cushing, Jr., J. W. Gurley, H. M. Lisle. Of these, there remain nine fellow surviving associates;—Hall, Otis, Adams, George Blake, Gay, Quincy, Rowe, Williams, and Cushing. Messrs. Hall, Otis, and Blake have retired from the bar. Adams, Gay, Rowe, Quincy, and Cushing have changed their residence; and Mr. Williams is the only one of the number now having a place at the Suffolk bar.

“The officers connected with the United States courts in this district, in my time, besides the present occupants, are H. G. Otis, George Blake, Andrew Dunlap, and John Mills, attorneys; Nathan Goodale, William G. Shaw, and John W. Davis, clerks; Samuel Bradford, Thompson J. Skinner, James Prince, Samuel Harris, and Jonas Sibley, marshals. Mr. Otis was but a short time in office, being removed by President Jefferson, in a few months after the appointment received from President Adams. Mr. Blake held the office many years, some of them years of great and peculiar pressure and perplexity, with eminent ability and assiduity. His successor, Mr. Dunlap, performed his official duties with similar energies, and with his characteristic ardor, tempered with gentlemanly address. Many now present remember his signal exertions, when he stood alone in the arduous trial of the pirates, in 1834, the number of the men on trial for their lives, as was remarked by their junior counsel, being equal to the number of the jury, by whom their fate was to be decided. Mr. Mills, who succeeded Mr. Dunlap, has recently resigned. He left us with the cordial esteem of all, with whom he was connected,—faithful, accurate, and able in his official transactions. It was only regretted, that he did not find it convenient to make

this, the place of his business in office, his place of abode. The discreet employment of a competent and very attentive assistant, in a great degree, was a sufficient substitute. It has always, I think, been important, and the urgency is continually augmenting, that the attorney, marshals, and clerks of the United States courts in this district, should reside in or near the place, where the business, to which their offices have relation, is almost wholly transacted. Of Marshals Bradford, Prince, Harris, and Sibley, I have spoken in deserved terms of commendation, when the present marshal, Mr. Lincoln, took the requisite official oaths in this place. Of his immediate predecessor, Mr. Sibley, I feel bound to say, in addition, that, to his attention and exertions, we are very much indebted for the ample and very acceptable accommodations for the United States courts, and all connected with them, in this edifice, by arrangements with the city government. There have been times, when there has been peculiar embarrassment in this particular. Frequently, no place could be found for holding the courts of the United States, but in a hotel. And at one time, I recollect, Marshal Prince announced, that he had written, or should write to Washington, that he knew not, where to find a place for the court, but under the great tree on the common.

“Among the clerks of this court, the last-named was, as you know, most near and dear to me. I am happy to say, also, that most of you were witnesses of his carefulness and courtesy, and how faithfully and acceptably he discharged all the duties of his trust. When your obliging sentiments were read, and I listened to the interesting accompaniments, offered by a son of an esteemed friend and classmate, it brought to recollection a reply made at a council fire, in a talk in our forest border. ‘Good words,’ said an aged chief, ‘Good words, and I will tell them to my children.’ Your good words I cannot tell to my son, but I shall tell them to his children. Of his six sons, all now very young, some one or more may, at some future time, have the ambition to take a place in your corps. If so, I am sure, they will find a welcome, and be received with generous good will. Mr. Bassett, my son’s assistant in his illness, and his tried friend and classmate, became his successor in the office. To well know his merits, his accuracy, and fidelity. Everything in his department is to my entire satisfaction. The connexion of the court with the present district attorney and marshal is quite recent. If I should have remained in office, I well know the satisfaction, with which my intercourse with them would be attended. It will be experienced, I am confident, in abundant measure by my successor, and by all, with whom they may have connexion, in the interesting offices committed to their charge. The Suffolk bar is greatly increased in the forty years of my judicial life. There are on its list more than six times the number of 1801. If we deduct from the list those, who are engaged in other pursuits, though their names still stand on the honorable roll, the acting number will still far exceed the rate of increase of population in the scene of action. There are other causes, prevailing in this very busy and flourishing portion of the community,

greatly affecting and varying the statistics and condition of the bar, in this city and its vicinity, on which I cannot, here enlarge, but which every intelligent observer must have perceived. They are considerations, which have brought here and well rewarded the transition of distinguished advocates from other counties and from sister states. The fair field has been occupied and honored by Dexter, Ward, Prescott, Jackson, Bigelow, Webster, Pickering, Choate, Jeremiah Mason, Fletcher, Sprague, Peabody, and others, who have been cordially received by those, whom I may term the home members. Men of eminent attainments, now in judicial office,—Story, Putnam, Shaw, and Thacher,—have appeared as advocates in this court, and occasionally distinguished counsellors from other counties, and from other states. If in my deportment I have been deserving of the commendation, which it has been your pleasure to bestow, much, very much, is due to my cherished intercourse with such men, as well as to my habitual respect and regard for your profession.

“It is a profession highly honorable, for it is highly useful. It has been embraced by the wisest and best of men, and in every country, having any pretensions to freedom or intelligence, the able, upright, well-instructed lawyer is of high consideration. The studies, in which he is accomplished, his knowledge of men in all their relations, his habits of research, reflection, and discrimination, the frank and independent tone of his character, inspired by the very genius of his profession, his unshaken fidelity to his trust, his varied intellectual acquisitions, his power of clear, forcible, and impressive communication,—all inspire confidence, respect, and esteem. In the various perplexities of life he is the safe and confidential counsellor. He enters the temple of justice, a representative of others, with rights, which all are bound to respect. Property, reputation,

the peace and repose of families, the affairs of various associations, the dearest temporal interests, are occasionally committed to his charge. Too often does the sad occasion occur, when some forlorn being, in a state of awful uncertainty, leans on him for support, and life hangs trembling on his exertions. The learned author of *Eunomus* suggests the opinion of one of his friends, a respected veteran, who had retired from practice, in regard to the moral tendency of the profession, which, if it were just, would impair its estimation and cloud its brightest honors. That friend is represented, as declaring, that 'He would never breed up a son of his to the profession, if he could not leave him a competence, independent of it, because he doubted much, whether he could thrive in it, at all events without sacrificing more of his honor and conscience than a man of any delicacy would wish for.' Very different was the opinion of my excellent predecessor, the Hon. Judge Lowell, an ornament of his profession, the delight of every friend and admirer of virtue, genius, and intelligence. I remember to have heard him more than once express, in his emphatic manner, his persuasion that the sentiments and habits, generated by legal studies and pursuits, were a precious security against wreck of character, and that they had a favorable tendency to invigorate and improve the moral sense, as well as the intellectual faculties. In this sentiment he is sustained by Lord Coke. 'For thy encouragement,' says that eminent jurist, 'cast thine eye upon the sages of the law, that have been before thee, and never shalt thou find any, that have excelled in the knowledge of the law, but hath drawn from the breasts of that divine knowledge, honesty, gravity, and integrity.' With such convictions and the eminent examples, which it has been my good fortune to witness, it has been my endeavor to maintain a corresponding deportment. We have all, I trust, been habitually mindful of our respective relations. Truth, says Malebranche, loves gentleness and peace. It has, I hope, been evinced, in our transactions together, sometimes of exciting tendency, that irritation and ill humor are not necessary incidents in legal controversies; but that the precious elements, truly and essentially appertaining to tribunals of justice, forbearance, moderation, and mutual civility, are the most favorable for full discussion and just decision, and in entire consistency with that manly character and uniform assertion of right, which it is the honor and the duty of the bar and the bench respectively to maintain.

"When I received my appointment, there was a distinct circuit court. The district judge had not a seat in that court. It was then my impression, abundantly confirmed since, that the alteration of the law in that particular is not an improvement. The employments of the district judge, of various descriptions in court, and of ministerial and miscellaneous character, are of such amount in this highly commercial district, that it seems neither reasonable nor advantageous to require his attendance and agency in another court. This consideration will be more especially urgent, if a bankrupt law should be enacted, and the jurisdiction of the court should be enlarged in reference to crimes and offences, one or both of which augmentations of the duties of the district judge, there seems reason to expect.

By becoming connected with the circuit court, I had the satisfaction of an association and intimacy with the venerable Judge Cushing, and of affording, I believe, some acceptable aid in his decline of life; and I have, in my turn, received relief and great enjoyment with his distinguished successor, the Hon. Mr. Justice Story. In that connection I have found every thing that could be wished. In business, never asking nor expecting from me more than my engagements in my own special sphere would consistently admit. By his eminent ability and unwearied" industry, in a great degree relieving a solicitude, which I might otherwise have experienced, from responsibilities in reference to the circuit court, and by his able decisions, as well as by his . learned labors, inter sylvas academïæ, affording salutary aid in various departments of my official duty. I have noticed with pleasure the improving influence of the law school in the University. The professional publications from some of his young pupils at this bar are highly honorable to them and to their instructor. I must forbear, gentlemen, to enlarge, though there remain topics, connected with my position, which it would not be in pertinent to consider. A great portion of the business, which we have been concerned in transacting, has been of admiralty jurisdiction, in which the trial rests wholly with the judge, as to fact as well as law. This characteristic, in regard to a large portion of the cases before him, is attended with peculiar solitudes, requiring the candid consideration, which I have had the happiness to experience. It would be a great relief to the judge, and might be an improvement, though of this I am not certain, if facts in admiralty and maritime cases were made triable by jury, as they are rendered by statute in regard to seizures on land. The solitudes of the bench, arising from the present law and practice in that particular, are, however, not of such character and degree as to call for the alteration suggested. In this respect, as well as in all other branches of practice, I have been relieved by the courtesies of the bar, which I have uniformly enjoyed, and for which you have my cordial thanks.

"Dr. Taylor, in his Elements of Civil Law, has a remark not inapplicable to my present position. It is relative to the passes or bridges, over which the voters in ancient Borne proceeded to give in their ballots. It was in this pass, that people of sixty years and upwards were objected to, and refused the right of suffrage: for, as sexagenarians could not be members of the comitia, as they could not be compelled to execute any public office after that age, so the younger sort thought it unreasonable, that they should be indulged their suffrage, and thrust them by, as they came along,—whence the phrase 'depon-tani senes.' Upon this rigid system, I should long ago have been 'depon-tanus;' but am willing to believe my generous auditors would consent to give me still further grace. But the time of release has arrived, and meets with my acceptance. I bid you an affectionate adieu, thankful for all your kindness, and for the gratifying and improving opportunities, which it has been my favored lot to enjoy, in the connexion now to be dissolved. It is painful to employ the solemn word, 'dissolve.' Our official connexion will cease; but reciprocal

esteem and good-will, will, I trust, remain in continued exercise. I shall rejoice in all I may see or hear of your prosperity and honor; and may the Father of Mercies, the giver of every good gift, sustain, animate, and guide you in your assiduous progress in the path of arduous duty.”

Judge Davis then descended from the bench, and took leave of the members of the bar and the officers of the court individually. The character of this learned and able judge was marked by a wise patience of investigation and a clear discrimination of principles. Yet it was not alone in his judicial capacity, that he won the esteem of all around him, but rather that to the high intellectual powers which he displayed in all the labors of his office were superadded a mild urbanity of manner, an unprejudiced candor of judgment, and a uniform dignity of deportment, which rendered him as much beloved as respected.

DILLON, JOHN FORREST.

{For brief biographical notice, see 30 Fed. Cas. 1370}

The following proceedings are reprinted from 5 Dill. 575:

On the 26th day of May, 1879, the circuit judge sent the following letter of resignation:

“Davenport, Iowa, May 26th, 1879. To the President: I hereby tender my resignation of the office of circuit judge of the United States for the eighth judicial circuit, to take effect on the 1st day of September, 1879. The date thus fixed will enable me to attend the rest of the summer circuits

to dispose of the unfinished business before me, and will likewise enable my successor, should he be nominated and confirmed before congress adjourns, to qualify in time to hold the earliest of the fall terms. In voluntarily terminating a judicial career of nearly twenty-one years on the state and federal bench, it seems fitting to add that I take this step not because I am dissatisfied with the duties of the office, but because I have recently been honored by an election to a place of commanding usefulness in Columbia College, where the labors are lighter, the compensation greater, and which also, in the leisure it affords as well as in the duties it requires, offers opportunities for the study and advancement of the law that may well satisfy the highest professional ambition. I have the honor to be, with the highest regard, your obedient servant, John F. Dillon.”

The resignation was accepted in the following letter:

“Department of Justice, “Washington, June 11th, 1879. Honorable John F. Dillon, United States Circuit Judge, Davenport, Iowa: Sir:—Yours of the 26th ult., tendering to the president your resignation of the office of circuit judge of the United States for the eighth judicial circuit, to take effect September 1st next, is received, and the resignation accepted according to its terms. The president desires me to express his regret that we are to lose you in the judicial service, and to wish you a most cordial and agreeable career in the other duties which you have decided to enter upon. In these expressions will you permit me also to concur. Very respectfully, Charles Devens, Attorney General.”

Kansas.

On the 10th day of June, 1879, the members of the bar in Kansas in attendance at the June term of the United States circuit court, at Leavenworth, passed the following resolution:

“Resolved, that the Honorable A. L. Williams be authorized to present the accompanying address to the United States circuit court, and ask that it be spread upon the records; and that the Honorable Robert Crozier, on behalf of the state judiciary, and the Honorable George R. Peck, the United States district attorney, on behalf of the practicing attorneys of the United States circuit court for the district of Kansas, be requested to follow with appropriate remarks; and that the reporter he asked to insert the proceedings had in court in this behalf in the next volume of reports.”

On the next day Mr. Williams presented, in open court, the following address on behalf of the bar, Mr. Justice Miller presiding:

“To the Honorable John F. Dillon: Sir:—At a meeting of the bar of the eighth circuit, assembled at the present term of the United States circuit court for the district of Kansas, it was unanimously ordered that an address be prepared and presented to you which should appropriately express the sentiments of the profession upon your voluntary retirement from the bench. In obeying that command, we feel that it is impossible by mere words to convey to you, and through this expression (which we shall ask to be made

a matter of record) to the public, any adequate idea of our sense of Inestimable loss in your retirement. For ten years past it has been the habit of the bar of this circuit to look forward to the recurrence of your terms with the highest anticipation of the pleasure of meeting you as a friend and the invaluable experience of attending upon your righteous and learned judgments. What has gone on so long and with unbroken regularity, and thus has been knit into a delightful custom, it had fondly seemed to us would end only with your earthly career. We can only look forward to the approaching close of this relation with sadness. It is seldom, we believe, that there is mingled in so great a degree the respect and admiration due to an able and upright judge with the tender regard which only characterizes sincere and intimate friendship as may be found in the case of the bar of your circuit towards yourself. It is a matter of public concern when a judge, with special aptitudes for his great calling, ripened by twenty-one years of continuous experience, becomes emeritus and retires upon his well-earned honors. The loss is not ours simply, or chiefly, nor are we alone fully appreciative of it. But the connection of bench and bar is such that we can most appropriately testify to it. We desire to assure you, sir, with a sincerity that is unfeigned, that though this proceeding partakes somewhat of the formality of procedure in a court of justice, yet this is no formal leave-taking. It is a parting that touches the heart and suffuses the eye. We cannot hope to add by this tribute anything to your great fame as a chancellor and judge. Neither can we extend your reputation as a philosophic student and writer upon the law, already firmly established among all Anglo-Saxon people. We seek to express only our appreciation of your public services as a jurist as witnessed and known by ourselves, and our regrets that they are about to end.

“The bar of your circuit owe you a debt of gratitude for many things, and not the least for the uniform help and encouragement you have ever extended to young practitioners. Your unfailing patience, the stimulus of your approving smile, your genial obliviousness of the crudities of the young lawyer struggling for a place with his abler fellows, have endeared you to both young and old, and taught us all lessons of charity and forbearance. Not a few of the younger lawyers of your circuit owe and attribute the greater part of the success they have achieved to the direct personal interest you have taken in their careers. Nor should we omit gratefully to acknowledge the service we may all derive from the example of your professional and personal life. You have taught us not only that there is no excellence without great labor, but how marvelous a degree of excellence labor united to probity of conduct may attain. We behold in you one who owes nothing to fortune, and but little to preferment—one who has risen by force of merit alone. No envy or detraction can shadow any honors you have or may receive, or any fortune with which you may be endowed, for it must be admitted on all hands that every step in your ascending ladder has been fairly and industriously scaled. And, finally, we desire to thankfully testify to your ability and absolute fairness as a judge. You have ever impressed upon the laity no



less than the bar, by your clear and comprehensive judgments, that law is a rational and coherent science, the end of which is justice. Your decisions have always been illustrated with clear and judicious expositions of the law, which satisfied the reason and convinced the judgment. Your practical intellect has always penetrated the husks of discussion to the kernel of controversy, and your conclusions have, for the most part, not only met the approval of the bar generally, but have been warmly acquiesced in even by the counsel whom your judgments have defeated. A term of this court has not only been regarded by the oldest and most experienced of our practitioners as a school where the better parts of their profession were ably taught, but it has been a source of pride to us all that, as counsellors here, we were assisting in as pure and efficient an administration of public justice as is possible anywhere. It is with the greatest satisfaction, however, that the bar of this circuit is credibly informed that your new avocation will indulge you in that studious leisure which, with the preservation of your strength, must result to the highest benefit of the philosophic student of the jurisprudence of this country. In conclusion, we would say that we hope and wish that every good fortune may attend you; that your physical and mental vigor may be long preserved for the sake of the noble science to which you have consecrated your life; and that you may preserve undimmed your recollection of the bar of the eighth circuit, who will ever remember you with the warmest affection and esteem.

W. H. Rossington,  
"Edward Stillings,  
"Robert Crozier,  
"A. L. Williams,  
"J. D. Campbell,  
"Committee."

Following this came an address on behalf of the practicing attorneys of the United States circuit court, by Air. George R. Peck:

“May it please the court: It would be obviously improper, in the performance of the duty assigned to me by my brethren of the bar, to mar the beauty and the appropriateness of the address just presented to the court by any formal or extended remarks. This is no time for praise, unless it comes from the heart. What I could wish to do is to impress upon this proceeding that it is a tribute, not to the judge, but to the friend. As has been so well suggested by my friend Mr. Williams, all motive for mere flattery is past. Whatever may be said here is the genuine and spontaneous feeling of the heart, or it is nothing. The court, like the king, never dies. Judge Dillon’s place will be filled by another, and our contentions go on as before but we shall miss the features of that familiar face, miss the tones of that familiar voice. If I were called upon to analyze Judge Dillon’s character, I should place, where it properly belongs, the moral above the intellectual—the heart above the mind. Genius may inspire admiration, but it is only the kind and sympathetic heart that can win affection. Judge Dillon’s crowning glory is that goodness and greatness which has endeared him to all, and especially to those who, by reason of their professional duties, know him best. I do not doubt that he is ambitious in common with other men, and I presume he is not insensible to the many honors which have been showered upon him, but we have all seen in that pure and blameless life, that in the heart of the great judge, dearer than ambition, dearer than fame, is that sentiment so beautifully expressed in the lines of Tennyson:

‘Howe’er it be, it seems to me  
Tis only noble to be good.  
Kind hearts are more than coronets,  
And simple faith, than Norman blood.’

“I ought to speak of his learning, known and recognized by jurists and lawyers everywhere; of his legal writings, which are cited as authority in the rude court-room of the frontier and in the classic walls of Westminster Hall. I ought to speak of his industry, that devotion to the laborious duties of his station which has enabled him to do what I believe no other circuit judge has ever done—to hold two terms of court in each district of his circuit during every year of his administration of the judicial office; and when we remember that his circuit is an empire extending from the British possessions to Louisiana, from the Mississippi to the mountains and beyond, it seems almost marvelous. I ought to speak of that high sense of duty which governed all his judgments, and by which he measured all rights in the just and even balances of the law. I ought to speak of that clearness of vision which enabled him to see what we could not or would not see, which guided him straight through all our fallacies and all our sophistries to the very heart and truth of the matter. I ought to speak of that dignity- mingled with human sympathy, which made it

plain to all men that here was a man who never forgot that he was a judge; here was a judge who never forgot that he was a man. I ought to speak of that strong sense of justice and equity, that hatred of wrong and oppression, which were so marked in his judicial character, that I have thought if, like Sir Matthew Hale, he should enter unheralded the courtroom of the unjust judge, robed only in a miller's coat and hat, all heads would bow and all tongues exclaim, 'This is a judge!' I ought to speak of his firmness, which ever upheld the right and repressed the wrong with the same iron hand. I ought to speak of our pride—pardonable pride—that when that venerable institution of learning, seated at the commercial gateway of the continent, with wealth and power at its command, sought to find the one man who could fill a most important chair, she reached her hand across the prairies and plucked this flower of our western civilization. But I have no heart to speak of these things at this parting moment. I can think only of his goodness, his kindness, and his sympathy. I know not whether a lawyer's prayer can avail anything in the chancery above, but, speaking for all my brethren of the bar, if I would take him by the hand—that hand which has led us all so long—I would say, good bye, and may God give you peace, health, strength, and happiness, always."

On behalf of the members of the southern Kansas bar, the following address was delivered by Mr. A. A. Harris, of Fort Scott:

"May it please your honor: The members of the bar of the southern portion of the state feel that, they cannot permit this occasion to pass without an expression of their approbation of every word of the address which has been reported and unanimously adopted. Accordingly, as their humble spokesman, I here declare, not only for them, but for the people of southern Kansas, irrespective of party, creed, or sect, that, in common with the enlightened people of the whole circuit, we greatly regret Judge Dillon's determination to retire from the bench. Upon one occasion, when a client of mine had a suit pending in this court which involved to him a very-large sum, and an adverse decision of which would reduce him to poverty, I was asked by him what sort of a man Judge Dillon was, and what sort of a court we had to try our case in. I told him that Judge Dillon was "a pure man, and an able man; that the court was the best one in which to try a good case that I had ever practiced in, and the worst one in which to try a bad case. I intended, sir, by that to say, that in the court where Judge Dillon presided law and justice were impartially administered. At the June term, 1878, on a motion to remand a cause to the state court, in which some exceedingly difficult points were to-be determined, Judge Dillon, after argument by myself and my very able opponent, told us from the bench one morning that he would be glad to hear us further on the points involved. I could but say to him that about all I knew about the removal act of 1875 I had learned from him. Sir, I care not what may be the wisdom of the executive, or that body which has the power to confirm his nomination, we shall not find in Judge Dillon's successor the stout arm,

the clear intellect, and full, complete learning upon which we have heretofore so implicitly relied. We part with him with great regret. We shall watch his future career with great interest, and, howsoever fortune may smile upon him, he may rest assured that he has no warmer, truer friends than we.”

On behalf of the state judiciary, the following remarks were made by Mr. Robert Crozier: “I would have been satisfied to have abided by the report of the committee as embodying my own views of the subject under consideration, but having been chosen by the committee to speak on behalf of the judiciary of the state, in addition, a few words are appropriate. Being an old citizen of the state, and well acquainted with the judiciary thereof, from the origin, I feel at liberty to express—that which I am fully advised are the views of the gentlemen occupying judicial positions in the state at the present time. Before the advent of Judge Dillon as judge of the eighth circuit, we were prepared, looking to his former reputation as a jurist, with which we were to a considerable extent acquainted, to welcome him with glad faces and open arms, and we did so. During the time of his administration of the law as judge of the eighth circuit, our expectations as to his manner of conducting the business of that position were and have been fully realized. We all have looked to the recurrence of his terms as seasons when we might be enlightened by his luminous exposition of the laws and the acknowledged justness of the decisions he made; and we were glad to be permitted, in the exercise of the functions devolving upon us, to sit under the rulings of one commanding the respect of the whole of us. After an experience of ten years, I can now say, for the judiciary of the state, that our highest expectations in this regard have been more than fully realized ; and now that the fates have decreed there shall be a final separation, our admiration is as glowing as at the beginning. We welcomed him

with open arms upon his advent; and we how him out at his exit with the same feelings of respect and kind regard that then influenced us. He goes to a place occupied by one of the distinguished sons of the republic—a position of commanding influence in moulding the jurisprudence of the nation ; and although separated from us physically, we shall feel contented that we shall hear from him as one of the great brotherhood of lawyers, whose influence in moulding the destinies of the nation are superior to that of any other class of its citizens. Individually, I have been honored with his acquaintance and flattered with his personal friendship; and I can say for myself, and, I think, for that, for the judiciary of the state, that the regret at his departure will be considered not only a personal loss to us, but a deprivation to those with reference to whom we must administer the laws of the state. “We take, however, to ourselves this consolation, that, though removed to another sphere, it will be one of such commanding influence that, although not! binding upon us, we shall be compelled to respect his utterances. Whatever betide—whether we see him again speedily or otherwise—when he comes amongst us again, although disrobed of the ermine, we shall welcome him as cordially, respect him as thoroughly, and admire him as unreservedly, as at any stage of his career among us, when clothed with power to command us.”

Response of Judge Dillon: “Gentlemen of the bar. I have no words fitting to respond to the addresses with which I have just been honored. My mind is burdened and saddened by the reflections which this parting scene suggests. How can I give them expression? I ought scarcely to attempt it. I feel bound to the state of Kansas by ties peculiarly strong. Ten years ago, although a stranger to them personally, the bar of this state, with great unanimity, recommended my appointment. Since 1869, I have been present at every term of the circuit court in Kansas, except in June, 1875. I have seen the docket grow from sixty cases to five hundred. I have given, relatively, more of my time to Kansas than to any other part of my circuit. My relations, therefore, with the bar which I see before me to-day, have not been distant and occasional, but constant and intimate.

“It gives me the sincerest pleasure to be publicly assured, at a time when no motive for flattery can be perceived, that my retirement from the “bench is regretted. Your approving judgment, your words of kindness and generous praise, and your well wishes for my future welfare, are dear to my heart. No ordinary temptation has induced me to surrender my commission as the judge of this circuit. No surprise could have been greater than the offer of Columbia College, which I finally accepted. I saw from the first what a wide field of usefulness, and possibly of distinction, it opened before me. I perceived at once the advantages of its more liberal compensation, lighter labors, and greater opportunities. But I assure you that it cost me a painful struggle for more than two months to consent to leave the associations of a lifetime—to exchange old friends like those now present for new acquaintances, to leave the circuit I love so well to go to untried duties beneath a strange

sky and among unfamiliar faces. If my health and strength are preserved, I shall strive to vindicate the wisdom of my decision by strenuously devoting my energies to the elevation and advancement of law. In the venerable institution to which I have been called, the great Chancellor Kent, pure and simple in his character and tastes as a child, after he had voluntarily closed his judicial career, and” when the shadows of his life were cast towards the east, delivered the lectures which constitute his Commentaries on American Law, and which will cause his name to be known and cherished for generations to come, wherever, in its widening conquest, the English language shall carry the English law. Such an example may well tempt and inspire the humblest of his successors.

“The change I have made, although great, is not radical. It enables me the better to carry out the fixed plan of my life. When called to the bench, nearly twenty-one years ago, the picture of the judicial office as drawn by Sidney Smith before the lawyers of the northern circuit made a deep impression on my mind. Even now I think I can recall it from memory: ‘He who takes the office of an English judge as it exists at this time, takes into his hands a gem, great and glorious, perfect and pure. Shall he mar it? Shall he darken it? Shall it emit no light? Shall he find it a diamond? Shall he leave it a stone? The ideal of an American judge should, I have always conceived, be equally high. I have had many and great controversies to decide. You know me well, and it is an estimable satisfaction to be assured, in this impressive and public manner, that, in your judgment, I do not surrender the jewel of the great trust which I have had in my keeping marred or dimmed or darkened. But I may not say more. I part from you with the most unfeigned regret. From the bottom of my heart I reciprocate your regard in the amplest measure. The richest legacy I carry with me, next to the consciousness that in the record of my judicial life there is not a single line that, living or dying, I would wish to blot, is the expression of your friendship, confidence, and regard contained in the address with which you have so signally honored me, and in the remarks which have accompanied it. I shall cherish it as long as I live, and its record here is one to which my children, and those who care for me after I am gone, will point with pride. Farewell!”

Mr. Justice Miller then said: “The court is in full sympathy with the bar in the sentiments which have just been expressed in regard to the retirement of one of its members. Judge Dillon’s resignation is a loss which must be felt by the bar of the eighth circuit, by the people among whom he has administered justice so long and so well, and by his associates on the bench of which he is about to take leave. This loss, however, is not equal in its effects upon all these classes. His brethren in the courts, who have co-operated with him in the arduous duties of a judge, who have received his aid, who have been with him in council and shared his labors, are the heaviest losers. It is, therefore, eminently appropriate that they should join in testifying to their appreciation of the man and his services by directing that the communication from the bar be spread upon the

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records of the court. If I may be permitted, as the presiding justice for the circuit for a period including the entire time of Judge Dillon's service in the court, to indulge in a suggestion of my own special misfortune in the matter, I must say that it is greater than that of others; for he whom I had hoped, as he came later, might remain longer in this court than I, and to whom would have fallen the duty of making the sad comments appropriate to the severance of our official relations, is the first to leave our common sphere of official duty. Though in his case the cause is one which carries him to a less laborious, a more profitable, and let us hope a more agreeable and perhaps useful field of labor, and though this must, as it ought, mitigate the pains of separation, it remains true, as regards my self, that I cannot hope in any successor, however talented by nature or accomplished by learning, the same assistance in the performance of my own judicial duties, and the same relief from unnecessary responsibility as presiding justice, which have made my relations with him so pleasant. When you add to this the interruption, more or less, of our social relations—relations which are imperfectly expressed by the strongest terms of affectionate friendship and unlimited confidence— it will be seen with what emphasis I unite with the bar and other members of the court throughout the circuit in this cordial tribute of respect and expression of regret at the retirement of Judge Dillon from the bench.”

Missouri.

“St. Louis, July 13th, 1879. Honorable John F. Dillon: My Dear Sir:—At a meeting of the bar

of this city a committee was appointed, consisting of George A. Madill, Alexander Martin, Thomas C. Reynolds, James Taussig, G.A.Finkelnburg, Joseph Shippen, and John R. Shepley, to prepare and submit an address to you upon the occasion of your retirement from the bench, to be subscribed by the members of the bar, placed before the circuit court for the district, and then transmitted to you. These were done, and now by their direction I enclose to you that address; and in so doing, permit me to say that there are few things in my professional life that have given me greater pleasure than to transmit to you this record of the high estimation in which you are held by your brethren of the bar in this district. You will find there the names of all those, except a few absent from the city, who have been connected with the court over which you have presided for so many years with such distinguished ability. Yours truly, John R. Shepley.”

Address of the bar: “St. Louis, June 23d, 1879. Honorable John F. Dillon: Sir:—As members of the St. Louis bar, we desire to express our regret that your official connection with the United States circuit court for the eighth circuit is about to terminate. But your voluntary retirement from the bench to another field of professional honor and usefulness affords an opportunity, which we gladly embrace, of presenting to you this expression of our respect and confidence. To you, as an author, the profession recognizes its indebtedness for a work which is a permanent contribution to legal literature, and is accepted as a standard authority wherever the English language is spoken. To you, as a judge in high station for nearly twenty-one years, we bear testimony to a career distinguished by uniform dignity and courtesy, by marked ability, great industry, and perfect integrity. Questions of wide variety and of the gravest importance have engaged your attention, and found their solution in judicial opinions marked by clearness of statement, vigor of thought, and profundity of learning. To the discharge of onerous duties you have brought a mind gifted with sound judgment, fortified by varied experience and enriched by wide research. While your career has largely advanced and elevated the science of the law, it has also endeared you personally to the hearts of the people among whom your labors have been performed. Assured that you bear from the west to the east a public judgment of duty well and faithfully discharged, accept this our sincere testimonial to worth and ability.” Signed by John R. Shepley, Thomas C. Reynolds, John W. Noble, D. P. Dyer, James O. Broadhead, Henry Hitchcock, Thomas T. Gantt, George A. Madill, John B. Henderson, John D. S. Dryden, Chester H. Krum, Joseph Shippen, Thomas C. Fletcher, and by one hundred and forty other members of the bar of St. Louis.

“Davenport, Iowa, July 14th, 1879. Honorable John R. Shepley: My Dear Sir:—I have the honor to acknowledge the receipt of your letter of the 12th inst., transmitting, by the direction of a committee, the address of the members of the bar of the city of St. Louis upon my retirement from the bench of the circuit court. This impressive testimonial of the respect and estimation in which I am held by the bar of the great city of St. Louis,



where for the past ten years so considerable a part of my official duties have been performed, has given me the sincerest pleasure. I have read, it with pride, and shall preserve it, with the autograph signatures, as a cherished memorial of my life on the circuit. I gladly avail myself of this occasion to express to the learned bar of St. Louis my grateful acknowledgments for their uniform kindness, respect, and consideration, and especially for the address with which they have honored me. I beg to assure them that I carry from the west to the east nothing which I more truly prize than their approving public judgment and friendly regard. Asking you personally to accept my thanks for the kind sentiments with which you accompanied the address, I remain as ever, very truly and sincerely yours, John F. Dillon.”

There was subsequently presented, on behalf of the members of the bar and the citizens of St. Louis, the following invitation, engraved and elegantly illuminated:

“St. Louis, Mo., September 1st, 1879. To the Honorable John F. Dillon, United States Circuit Judge of the Eighth Circuit: Sir:—The undersigned, lawyers, business men, and others, citizens of St. Louis, Missouri, viewing with profound regret the prospect of your relinquishment of the judicial station you have so eminently adorned, desire to make a suitable demonstration of their high respect and regard for you personally, and of the veneration in which you are held as a wise, learned, and upright judge by them and the entire community of this city. They therefore tender you a public banquet, in St. Louis, at such time as you may be pleased to designate. We are, sir, your obedient servants, John R. Shepley, George A. Madill, John B. Henderson, John C. Orrick, Elmer B. Adams, A. M. Thayer, John W. Noble, William Patrick, James O. Broadhead, Nathaniel Holmes, James J. Lindley. David Wagner, Lucien Eaton, Newton Crane, Nathaniel Myers, Thomas E. Tutt, Scruggs & Barney, George Bain, Gerard B. Allen, Thomas C. Reynolds, Henry Hitchcock, John M. Krum, C. S. Hayden, Samuel T. Glover, John D. S. Dryden, Chester H. Krum, Thomas T. Gantt, Charles P. Johnson, S. D. Thompson, D. P. Dyer, Thomas C. Fletcher, M. Dwight Collier, R. J. Lackland, William Barr & Co., Samuel C. Davis & Co., E. O. Stannard, and ninety others.”

To which was given the following response:

“Davenport, Iowa, September 15th, 1879. Gentlemen :—I have the honor to acknowledge the receipt of your communication of the 1st inst., in which, after expressing your regret at my retirement from the judicial station I have held among you so long, you offer me the compliment of a public banquet as a testimonial of your respect and regard. I perceive from the signatures to the invitation that it comes from many of the eminent lawyers, great merchants, and leading citizens of the city of St. Louis. Of the similar expressions which the event referred to has called forth in this judicial circuit, none has penetrated me more sensibly; and if anything could make me regret a step taken from a sense of duty to myself and my family, it would be that I was leaving a region in which my judi-

cial labors are so generously viewed and parting from friends so devoted, to enter upon untried duties in a community in which I am personally almost a stranger. I had hoped until today that I might be able to accept the proffered honor, but, for reasons which I need not detail, I find that I must go east immediately, and it is quite uncertain when my duties and engagements there will allow me to return to the west. I am, therefore, most reluctantly obliged to forego the pleasure of meeting you in the manner you propose, and the privilege of expressing my profound sense of the many obligations under which the people of St. Louis have placed me, and saying my farewell to you and your citizens in person. Permit me to add yet another word. I look upon your invitation not simply as a compliment to me personally, but also as an expression of your sense of the supreme importance of the judicial office, not only to the great interests which you represent, but to the entire country. The fearless and independent discharge of the duties of a judge will inevitably bring him into frequent collision with private interests and public sentiment. In such a discharge of duty the judge needs at all times the consciousness of the support of the substantial interests of the community. It gives me pleasure to say that I have always noticed a sound, healthy, and enlightened public opinion on this subject among your citizens, and every judge in this country, of whatever grade, will be animated, cheered, and strengthened by your influence and example. I have the honor to be, as ever, most obediently yours, John F. Dillon.

“Messrs. John R. Shepley, Gerard B. Allen, George A. Madill, Thomas C. Reynolds, John B. Henderson, and others.”

Arkansas.

A large meeting, composed of the Little Rock Bar Association and of members of the legal profession from other parts of the state now attending court at the capital, was held on Saturday morning, June 14th, 1870, at the supreme courtroom, for the purpose of taking appropriate action in relation to the resignation of the Honorable John F. Dillon of the office of United States circuit judge for this judicial circuit.

Upon motion of the Honorable Henry C. Caldwell, judge of the United States district court for the eastern district of Arkansas, the Honorable E. H. English, chief justice of the supreme court of the state, was elected president of the meeting, and Mr. Eben W. Kimball secretary. The chief justice, upon taking the chair, cordially thanked the meeting for the honor conferred upon him on this occasion. He then briefly stated the object of the meeting, and said that he, in common with the whole bar of the state, exceedingly regretted that Judge Dillon had resigned his present position on the bench, which he had so long, so acceptably, and so honorably filled, and where he had won a national reputation; that Judge Dillon was a man of pure and exalted character—a judge of extraordinary attainments, application, and legal knowledge, and one whom the people of the west and of Arkansas regretted to see retire from the judiciary. But, he said, while he now leaves the bench, he will not be lost to the profession, for in his new vocation (a position which would do honor to any lawyer) he would not only be able to instruct the young men of the country in the science of the law, but also to write law books for the use of the profession generally—a work for which no one seemed better fitted than Judge Dillon. The chief justice spoke very feelingly and eloquently of the high character and great services of Judge Dillon, and was listened to with marked delight and approval.

Upon motion of Mr. U. M. Rose, the chair appointed a committee of three to draft resolutions properly expressing the sentiments of the bar of Arkansas in relation to the resignation of Judge Dillon. The committee consisted of Messrs. U. M. Rose, T. D. W. Yonley, and R. A. Howard. The committee reported the following resolutions. Before reading them, Mr. U. M. Rose read to the meeting the following extract from a letter recently received by him from Judge Dillon:

“Leavenworth, Kansas, June 8th, 1879. Dear Judge:—Your letter of the 24th ult. has followed me around the circuit and found me here. It anticipated an event which became a fact accomplished before it was received. I could easily perceive all the probable advantages of the offered exchange of places—the lightened labor, the increased compensation, and opportunities for professional gains or distinction, if, happily, I had the ability to achieve the latter; and yet hesitated long in reaching a resolution. I hope I have decided wisely. It cost me a painful struggle to consent to leave the friends and associations of a lifetime, and particularly the bar of the circuit, to whom I feel so much indebted and so warmly attached. My thoughts and reflections are tinctured with sadness whenever I

think that I have severed the ties which connect me with the circuit, and go to new duties, in a strange and distant place. If my health remains to me, I shall try to demonstrate the soundness and wisdom of my judgment by doing more for my profession than it was possible for me to do on the tread-mill of the bench, with its ever-increasing weight of duties. I beg leave to add that I part with no district with more sincere regret than with yours, with Judge Caldwell, and the bar of Arkansas. I have always been treated by them with marked consideration and kindness. Very sincerely yours, John F. Dillon.”

Resolutions:

“Resolved, that, having been advised of the resignation by the Honorable John F. Dillon of his position as judge of this circuit, we are impressed with a feeling of regret, and desire to convey to him in a respectful manner our sincere admiration for the great learning, impartiality, and uprightness displayed by him while on the federal bench, the soundness and accuracy of his opinions, and his uniform kindness and courtesy to the bar; for a consistent administration of justice that has shed a lustre on the science of the law, and has in many ways conduced to its clearness and purification.

“Resolved, that, as Judge Dillon retires to another field of labor, we trust that he may find in it a wider usefulness, and some dimunition of the arduous toil that has marked his judicial life, and which seemed to test the limits of physical and mental endurance; and we beg leave to assure him that he carries with him our best wishes for an easier and a long and prosperous life, during which he may, by his investigations, add to his valuable contributions to legal learning, which have already made his name a household word with the bar and the courts of the country.

“Resolved, that the secretary of this meeting be requested to forward to Judge Dillon a copy of these resolutions.”

Upon motion of Mr. M. W. Benjamin, the resolutions were unanimously adopted. Upon motion of Honorable R. C. Newton, Judge Rose was requested to furnish the meeting with a copy of the abstract of Judge Dillon’s letter, just read by him, and the same was made a part of its proceedings. It was moved by Mr. John McClure, and carried, that the secretary of this meeting be requested to furnish the papers of the city with a copy of its resolutions and other proceedings for publication. Upon motion of Mr. Yonley, the secretary was requested to present to the United States circuit court for this district a copy of the proceedings of this meeting, with the request that they be spread upon the records of that court. The meeting then adjourned.

A true copy. Attest: Eben W. Kimball, Secretary.

The following answer was given:

“Davenport, Iowa, July 9th, 1879. My Dear Sir: —I have the honor to acknowledge the receipt of the proceedings of the bar of Little Rock relative to my retirement from the bench. I am deeply sensible of the debt I owe to the bar of your state, and I fully prize

this expression of their regard and friendship. I am grateful for it. It places me under a perpetual obligation. I part from them with unaffected regret. They have a sunny spot in my heart, and a cherished place in my memory. I beg you to accept, personally, my warm thanks for your kind expressions and well wishes. I am, very truly and sincerely yours,  
John F. Dillon.

“Eben W. Kimball, Esq., Secretary, Little Rock.”

Nebraska.

At a session of the circuit court of the United States for the district of Nebraska, held at the court-house in the city of Omaha, on the 26th day of June, 1879—Honorable Elmer S. Dundy, district judge, presiding—Mr. E. E. Brown, a counsellor of the court, appeared and stated that on that day, at a meeting of the members of the bar, whereof he was president, a committee was appointed to express in fitting resolutions the sentiments of the meeting upon the occasion of the retirement of his honor, the circuit judge, from the bench, which committee consisted of Mr. J. M. Woolworth, Mr. E. Wakely, Mr. Clinton Briggs, Mr. J. H. Broady, and Mr. D. G. Hull; that the said committee had reported to the meeting certain resolutions, which were unanimously adopted; and that the said meeting had instructed him to present the same to the court and move that the same be spread at length upon its records. He thereupon presented the said resolutions to the court, and moved that the same be recorded in the record of its proceedings. “Whereupon it was ordered that the motion be granted, and the clerk spread the said resolutions at length upon the records of the proceedings of the court. The resolutions are as follows:

“Whereas, the judge of this circuit, the Honorable John F. Dillon, is about to surrender his trust by resignation, to accept a high honor tendered to him by Columbia College, we, the members of the bar in attendance upon the United States circuit

court, for ourselves and. in behalf of the bar of this state, do resolve:

“First. That, during the whole of his service on the bench of this circuit, which was preceded by a judicial career of much honor. Judge Dillon has devoted to the discharge of his great and laborious duties the full measure of integrity, capacity, learning, industry, and impartiality demanded of the incumbent, as attested by the general judgment of the bar and the people.

“Second. As a jurist and legal author, he has advanced the profession, has won a national reputation, and reflected credit upon the west, where his work has been done.

“Third. As a citizen and man, he has secured the very high respect and confidence of the public, by the sincerity, uprightness, and purity of his life and character, his fidelity to obligation, and his sense and love of justice in the administration of his office.

“Fourth. In the new and responsible field of duty to which he is called, he will have our utmost faith in his ability to meet its demands with signal usefulness and success, and our earnest wishes that he may be in all things prospered.

“Fifth. That the circuit court be requested to cause these resolutions to be entered in the record of its proceedings, and that a copy thereof be transmitted to Judge Dillon.”

Iowa.

“Des Moines, Iowa, August 22d, 1879. Honorable John F. Dillon, Davenport, Iowa: Dear Sir:—The bar of Iowa desire that you will accept at their hands, at such time as will suit your convenience, a complimentary banquet. We have been appointed a committee of the bar of the state to communicate this wish. Allow us to suggest some evening during the next term of the United States circuit court at this place. We sincerely hope you will accept this proffered compliment. So long identified with the profession and with the judiciary, so intimately connected with the growth and prosperity of Iowa, and so much esteemed and respected as you are by her bar and people, we shall regard it as a very great pleasure indeed to unite and extend to you our friendly greetings before you leave to enter, as we hope, upon even a larger field of usefulness. Be pleased to advise us of your pleasure in the premises. We are, judge, as ever, your friends, truly,

“George G. Wright, Des Moines,

“John H. Craig, Keokuk,

“E. H. Stiles, Ottumwa,

“W. F. Brannan, Muscatine,

“George J. Boal, Iowa City,

“O. P. Shiras, Dubuque,

“John N. Rogers, Davenport,

“N. M. Hubbard, Cedar Rapids,

“Committee.”

The following response was made:

“Davenport, Iowa, September 13th, 1879. Gentlemen :—Your invitation to accept a complimentary banquet from the bar of the state came here in my absence and awaited my return. I have held it for some days unanswered, and have just definitely ascertained that it will not be practicable, in view of my other duties, to engage to accept it, as I am called east immediately, and the time of my return to the state is uncertain. I trust it is unnecessary to add that the invitation and the warm terms in which you have been pleased to refer to me and to my judicial and other labors are sensibly felt and fully appreciated, for I assure you that I am bound to the state of Iowa by no ordinary ties. For one and forty years I have lived within this state. As a boy I played upon the banks of her great river, and her noble prairies have become incorporate into my very existence. Here I was educated and married; here my children were born; here I have been honored by successive elections to high judicial station; and here, under her skies, my sun has already passed its meridian. Iowa has been to me a generous mother, and neither time nor distance can weaken my attachment to her. My relations, public and private, have been chiefly with the bar of the state, and I am truly sorry that I am precluded by other engagements from accepting the most grateful, and in all probability the last, honor I shall ever receive at their hands. I remain, as ever, very sincerely and faithfully yours, John F. Dillon.

“To the Honorable George G. Wright and others, committee.”

Minnesota.

The members of the bar of the district of Minnesota, at the opening of the June term of the United States circuit court, at St. Paul, on the 16th day of June, 1879, held a meeting to determine what testimonial of their respect and esteem should be tendered to Judge Dillon on the occasion of his withdrawal from the bench of this circuit. A committee composed of Charles E. Flandrau, John B. Sanborn, George L. Otis, George B. Young, and Harvey Officer, was chosen, with full powers to represent the bar of the district and arrange such proceedings as in their judgment would be suitable and proper. It was decided to tender to Judge Dillon a banquet and an address.

The following correspondence ensued:

“St. Paul, Minn., June 20th, 1879. Honorable John F. Dillon: Dear Judge:—The bar of Minnesota, learning that you are about to terminate your judicial relations with this district, desires to manifest its very high esteem for you as a man, a friend, and a judge, and invites you to meet it at a dinner to be given in your honor at the Metropolitan Hotel, in this city, at such time as may be agreeable to you. We hope you will gratify us by accepting this invitation, and to designate such time as will best suit your pleasure and official engagements. With much respect, truly your obedient servants and friends,

“Charles E. Flandrau,

“John B. Sanborn,

“George L. Otis.

“George B. Young,  
“Harvey Officer,  
“Committee.”

Reply:

“St. Paul, Minn., June 27th, 1879. Gentlemen :— Your invitation to a banquet proposed in my honor was received some days since. I have been waiting till some fortunate interval in my official duties would allow me to accept it. But it has turned out otherwise, and the demands upon my time are such that I must leave St. Paul on to-morrow. Much to my regret, I am compelled to decline, during my present stay, an invitation which, you scarcely need to be assured, it would have given me the sincerest pleasure to have accepted. I beg to tender to the bar my thanks for this renewed mark of their regard. With great respect, I am very truly and sincerely yours,

John F. Dillon.

“Messrs. Charles E. Flandrau and others, committee. “

On the 28th day of June, 1879, the bar, having learned that Judge Dillon would take his departure from the city in the evening of that day, assembled in the court-room, under the call of the committee, in large numbers, at 3:30 P. M. On the opening of the court, Judges Dillon and Nelson being on the bench, Mr. Flandrau, who had been chosen by the committee to deliver the address of the bar, addressed the court as follows:

“May it please your honors: The great majority of the members of the bar of this district have grown up with it since its organization, and will probably continue to practise in it until their retirement. It is natural, therefore, that we should feel a deep interest in the-question as to who shall be intrusted with the administration of its affairs. When the growth of the west rendered it necessary to increase the force of the federal judiciary by the creation of the circuit judges, we were all much rejoiced when we learned that Justice Dillon had received the appointment for this our circuit. He was no stranger to us—his fame as a jurist had preceded him. His services have so endeared him to us all that when we learned of his intention to resign his position, although in exchange for new honors, our regret was great, and we determined that he should take with him an avowal of our sentiments. A committee of the bar of the district



have prepared an address to be presented to Judge Dillon, and have conferred upon me the honor of bearing it to him. With the permission of your honors, I Will now deliver it.”

The address to Judge Dillon:

“Honorable John F. Dillon, United States Circuit Judge, Eighth Circuit: Dear Judge.—The members of the bar of this state have learned, with profound regret, that you have decided to sever your connections with the bench of this circuit. They have enjoyed, for the long series of years during which you have been its presiding justice, such agreeable relations with you personally and officially, and have held you in such high esteem as a man and a judge, that they desire to make some public expression of the sentiments universally entertained by them on the occasion of this their last opportunity of holding official communication with you. We will not ask you, or the world, to weigh our opinion by the standard of our professional consequence; we know that we represent a frontier district, and we have nothing to say as to our own importance, but we can, without egotism, affirm that we are a fearless and independent bar, and that nothing could induce us to give expression to what we did not conscientiously believe. Let the value of our views, then, be measured by their sincerity. We recognize in you a man of extraordinary learning in all the branches of knowledge that combine to make a thoroughly good judge. We also concede to you all those qualities of temperament which are essential to the same end. You have been patient, when we have been tedious; you have been amiable, when we have been irritable; you have always been clear, when we have been in doubt. It has been an edifying pleasure to us to listen to your lucid expositions of the many difficult questions, which we have, in the discharge of our professional duties, so often submitted to you for solution. The varied interests that have been referred to your decision have involved the welfare of the greatest enterprises of the northwest, and these contests have arrayed in antagonism forces of corresponding magnitude; yet your wisdom and impartial justice have enabled you to satisfy all interests and make your judgments respected by all parties. The highest tribute we can pay to your excellence as a judge is to say that in all the long years in which we have practiced before you, and in all the various contests which we have represented as counselors in your court, the instances which any of us can recall in which we have suffered defeat are very rare indeed, where we have not, on reflection, been compelled to acknowledge the correctness of your decisions; and in no case have we ever had occasion to doubt your perfect impartiality and conscientious discharge of duty. We have, by our long and intimate association with you, ceased merely to respect and venerate you as a judge, but we have also learned to love you as a friend. Your departure from us, therefore, involves much more than the ordinary consequences of official change. The loss to the bench may be supplied, and the wheels of the law revolve as before, but the severance of the closer ties which unite us is irreparable. There could be no more

fitting occasion than the present one of leave-taking, for us to assure you that nothing has ever occurred in the administration of your official duties in this district, or elsewhere in your circuit, which has in the slightest degree abated that perfect trust you early inspired, and which time has ripened into faith.

‘We’ve seen the actions of your daily life Scann’d with all the industrious malice of a foe, And nothing meets our eyes but deeds of honor.’

“It is gratifying, however, to know that the step you have decided upon does not wholly withdraw you from the profession, but merely changes the sphere of your usefulness. We hope to share the benefits of your labors in many valuable contributions to the literature of the law, which your learning, experience, and the dignified repose which will attend your future duties, will so eminently qualify you to produce. We congratulate the bar of the future on securing so competent an instructor. No word that we can utter could add anything to the high compliment which has been paid you by the venerable institution which has chosen you to fill one of the highest places in its bestowal. The bar of the whole west will feel honored in your selection, and will take pride in your success. We bid you an affectionate farewell, and assure you that the best wishes of the whole bar of Minnesota will always follow you, wherever duty or pleasure may call you.

“Charles E. Flandrau,

“John B. Sanborn,

“George L. Otis,

“George B. Young,

“Harvey Officer,

“Committee.”

After reading the address, which was richly engrossed in a handsomely ornamented morocco case, it was handed to Judge Dillon by Judge Flandrau, who then continued: “Allow me to present to you an engrossed copy of the address, with the compliments of the bar of the state. I am also commissioned to move his honor, Judge Nelson, on behalf of the bar, to allow the address to be entered upon the records of the court, which motion I now make, and ask that it may be granted.”

In support of the motion, the following addresses were made:

Address of Mr. District Attorney Billson: “The address to which you have listened, Judge Dillon, portrays only in subdued colors, I am sure, the sentiment, not too strongly expressed by the word ‘sorrow,’ with which the bar of Minnesota have contemplated your withdrawal from the judicial office. So long, so rich, and so varied has been your experience as a minister of justice; so unremitting has been your industry; so ardent and exclusive your devotion to the law; so high have been your professional ideals, and so conspicuously conscientious and disinterested your pursuit of them, that, in our minds, the blind goddess and her scales are scarcely more intimately associated with the judicial

function or more emblematic of its unerring discharge. I think I shall only give voice to the common experience of our bar, when I say that the opportunities we have enjoyed of observing your ample learning and your skilful methods in the dispatch of business have been the most stimulating and highly prized of our professional privileges. The patience and circumspection with which you have been cheerful to listen and inquire; the rapidity with which you have grasped, and the tenacity with which you have remembered, the most intricate statements of facts; your quickness to apprehend an argument of counsel, and to further illustrate its correctness, or to expose its fallacy; your happy combination of capacities for the widest generalization and for the most detailed and discriminating analysis; above all, the benevolent solicitude, the consummate skill, the sound discretion, and frequently the splendid success, with which you have ever striven to avert that sometimes inevitable but always deplorable catastrophe, an incompatibility between fixed principles of law and the equities of a particular case—all these are salient features of your official character, as we have learned it and loved it during ten years of professional contact, and as we shall bear it with us in perpetual remembrance.

“It has been your good though arduous fortune to preside over a circuit imperial in extent, resources, and variety of industrial pursuits—skirting, as it does, the Mississippi from its source almost to the gulf, with its western confines resting on the mountains. Vast and various as the ordinary litigation of such a circuit must have been, its dignity and difficulty during the last decade have been enhanced by three convulsions which have successively afflicted the several portions of your circuit. You have been called upon to administer upon the wreck of the confederacy in the south; upon the bankrupted railroad corporations in the north; and in the central part of your circuit upon the most formidable conspiracy against the public revenues which has been known to the new world. I refer to the late unlamented whisky ring. Your decisions upon the grave and often novel questions thus precipitated on your court,

have been perused with admiration by the profession throughout the country, and, with a gratifying degree of confidence, are everywhere cited as authority by bench and bar alike. In a word, you have made solid and fame-worthy contributions to the noble science of the law, upon which have labored the closest thinkers of many ages, and which, with all its imperfections, is one of the finest creations of human reason. As representing a department of the public service co-ordinate and intimately associated with that from which you are about to retire, I wish before closing to give brief expression to the sense of loss which I know will be keenly felt throughout all branches of the federal service upon the retirement to another field of labor of one who has been confessedly among its brightest ornaments, and who has added new luster to the already illustrious name of the federal judiciary.”

Mr. C. K. Davis' address: Governor Davis said: “Judge Dillon.—The bar of this state received the announcement of your resignation with expressions of regret more touchingly eulogistic than words can here express, with due regard to the formality of this proceeding. Men of sensibility will not say in his presence concerning a person who is the object of their affection, nor can such a person hear without embarrassment, those words which fully satisfy the feeling which prompts them. History, even though it speaks with the voice of friendship, does not say, and cannot say, to him all that absence and the future will require. This bar cannot, however, forego the opportunity of this sad moment of parting, of this moment which gathers up into the heart its full sense of the fact that we are to stand before you as a judge no more, to cause you to feel how great is our esteem for you, how great our deprivation is. It so happened that we urged your appointment as circuit judge, many years ago. Of the many eminent names which were under consideration for that nomination, your own was preferred by us, not for any personal reasons, because few of us then enjoyed your acquaintance. We had, however, become familiarized with your judicial character by frequent applications in our courts of your decisions as judge of the supreme court of Iowa, and we were guided to our preference by them. We found in them learning always more than sufficient for the case; intellectual vigor, to which that learning was an armor, not an incumbrance; mental independence creative in its character; a judicial conscience which dealt with the case and not with its consequences. With these, our prepossessions, you came to us, and there is not a member of this bar in whom they have not passed into convictions which are adorned and made forever beautiful by an abiding love and esteem for those personal traits which experience only can teach, and which absence cannot destroy or even him. The resolution which you have taken, while it grieves, does not surprise us. There are limitations to all endeavor and ambition, and surely the administration of the laws of seven commonwealths, which hold six millions of people, which present diverse institutions, Codes which, though perhaps analogous, are yet so different as to perplex; where civilization and empire are so visibly overspreading

a region where terminus has not yet set up his landmark; where a legal system must be created in a few years which will survive when the erasing finger of time has made illegible the decrees which establish it; surely these are boundaries which circumscribe the greatest capacity and resolution. It was for you, and not for us, to say when you should pause. It is our gain and your glory that so much of this vast work has been done. It will not pass away. It will endure in precedents, guiding human concerns when all recollection of us is lost. It is due to you to speak of one act of your judicial career which has benefited this state and is appreciated by our people more, perhaps, than has been signified to you. The financial catastrophe of 1873 afflicted us deeply. It left our future unsecured. Our great railway system, which had been projected and partially constructed towards the British possessions, was paralyzed at the moment when consummation seemed very near. The land grant depended upon the completion of the enterprise, and it was not easy to see how this could be done in the war of disappointed and clamorous interests and in the debility of bankrupt corporations. But in this court the expansive and administrative forces of the system of laws here administered were fully proved. The settlement of private right was made instrumental to the public good, and both private right and public good were perfected and increased. The road was built, the lands were earned, the frontier was advanced, and the homes of thousands stand to-day where we feared the wilderness would be supreme for many years. By this the court has earned what courts seldom receive—the gratitude of a people for a judicial act. Our regret at your retirement from the bench would be greatly increased were we not assured that the new field of usefulness to which you have been invited affords an ampler verge for what you would necessarily have continued to contribute to had you remained in your present office. It has become apparent that our system of laws some time ago arrived at that stage of complexity and contradiction of precedent which demands a reformation and second growth. The time, which we can all remember, has passed when an authority in point, exhumed by mousing industry, was a kind of fetich before which judges bowed and opposing counsel were dumb. Principle, so long suffocated beneath the mass of cases, has been compelled to rise and to remit them to their auxiliary places. This is a time like those when the great civilians were ordered by Justinian to formulate the immense mass of the Roman laws; when commerce and the extending empire compelled Mansfield to project by a continuous judicial travail of thirty years the commercial code of all English-speaking people; when the failing feudal abuses, vicious in their last extremity, compelled D'Aguesseau to remodel the law of France. These works were done by judges. The work soon to be done in our day must principally be done by judges. We hope and expect that in your new vocation you will continue to contribute powerfully to that great result, which is destined to condense and make more certain and symmetrical our cumbrous jurisprudence. Nothing more remains for me to say, except to assure you of an abiding esteem, affection, and

respect, and to hope that in all stations to which you maybe called, your evening of life may be made pleasant by honor, love, and troops of friends, and by the gladsome light of jurisprudence.”

Mr. Gordon E. Cole’s remarks: “May it please your honor: In rising to express my cordial concurrence in the sentiments of the address of the committee, I know that I but give utterance to the universal expression of the bar of the district. The announcement of your determination to withdraw from the very arduous duties—none more so, I believe, in the world—of the judge of the eighth circuit, has elicited an unanimous expression of regret such as has rarely greeted retirement from judicial office. The patience and painstaking with which you have ever sought to solve the most difficult problems of both law and fact; the wisdom with which, under your administration, the harshest and most technical rules of the common law have been attempered by equity; the ripe legal learning and felicitous language which has enriched and adorned your judicial decisions; the uniform kindness and courtesy which has characterized the intercourse of the bench with the bar, have endeared you to the bar of this district in a vastly more than common degree. Every country and state has, or has had, its golden age of the law, to which the profession loves to recur. The era of Marshall in the nation, of Kent in New York, of Shaw in Massachusetts, of Gibson in Pennsylvania, of Mansfield in England, and of your honor’s administration in the eighth circuit, were all such periods, and will alike be remembered as luminous epochs of judicial history. You go from us to enter upon a more remunerative and less laborious field of labor, clothed as with a mantle with our heartiest wishes for your abundant success, and followed by our profoundest regrets

for the step which robs us of a judge whom we can love, honor, and respect, and the bench of one of its brightest ornaments.”

Mr. Thomas Wilson followed with these remarks: “May it please your honor: I wish only to add a word. What one of us on this occasion says, is but the echo of what every other feels. Though it is but recently that you first came among us, we feel your loss as almost irreparable. Never before have I known a judge to secure, or, as I believe, deserve, more unreservedly and unqualifiedly, the admiration, confidence, and affectionate regard of the bar. You have come up to, yes, elevated, our most exalted ideal of a great and good judge, and at the same time you have bound us to you by a friendship that will be as lasting as our lives. Wherever you go our friendly eyes and hearty benedictions will follow you. I hope our loss may be your gain; that your afternoon of life may be cloudless, and your friends in your new home be as hearty and true as those who to-day so much regret to be compelled to say good-bye.”

At this point, during a brief pause in the proceedings, Judge Nelson inquired, “Is there anything further, gentlemen?” and receiving no response, Judge Dillon himself said:

Judge Dillon’s response: “Gentlemen of the bar: The address of the bar of Minnesota, and the remarks which have accompanied its presentation, fill me with sentiments of gratitude which any poor words of mine can but inadequately acknowledge and express. Nearly ten years ago I came to this city, bringing with me my commission as judge of this circuit. I was personally unknown to the entire bar of the state. You received me with characteristic cordiality and warmth. Since then I have attended nearly every term of the circuit for this district, and the relationship thus created has been to me one of uninterrupted satisfaction. You will, therefore, readily credit me that your public assurance that the relation has been satisfactory to you, and that you view its termination with regret, cannot be otherwise than extremely gratifying to me. We met as strangers, and I beg to say that no part of your address gave me such real pleasure as the assurance that we part as friends. It has fallen in the line of my duty to decide, in connection with my learned associates, many causes involving large interests, some of which have excited warm feeling, and have been conducted with zeal, and in which the result must at times have disappointed counsel as well as suitors. Yet, such has been the uniform respect and confidence of the bar, that, so far as I know or believe, my judgments have left no wounds which did not readily heal without a scar. You have been pleased to refer to my official conduct in decisions in very complimentary terms. I cannot but feel that this is largely due to the partiality of friendship. It is fitting that I should acknowledge that for whatever praise I may justly merit in this respect I am largely indebted to the wise counsel of my associates, and to your ability and learning. Fortunate is the judge who has the enlightened aid and the steady support of such a bar as I have been accustomed to meet at every term in the state of Minnesota. He who holds the office of judge of this circuit, holds a place of great

responsibility and great difficulty. He who discharges all of its varied and exacting duties must shun delights and live laborious days. No man's unassisted judgment is equal to the work, and I feel that my obligations to the bar are far greater than theirs to me. I am your debtor, you are not mine.

"You refer to the new field of labor which I am about to enter. I forbear any extended allusion to it, and will only say that the action of the venerable university in coming to this remote circuit in the west to fill a chair in the institution which, with pardonable pride, points to the lectures of Chancellor Kent, delivered therein fifty years ago, could not have been more of a surprise to you than it was to myself. The increased leisure it gives, the nature of the duties it requires, the compensation it affords, and the great opportunities, direct and collateral, it presents, combined to convince me that I ought to go. I do not seek it for a life of inglorious ease, but that I may the better be enabled to discharge that debt which Lord Bacon says every lawyer owes to his profession. Our official relations are practically dissolved. This is my last regular term. In this parting hour I love to contemplate you, not simply or chiefly as the trusted counsellors of the court, but as an assemblage of my friends. The bar has always been my constituency. I claim no merit but a strenuous and well-meant endeavor to discharge all my public duties. The regard and respect of the bar is the only reward I have coveted, or now prize. I hear with me nothing but the most pleasant memories. I carry away nothing so priceless as the public and impressive expression of the esteem in which I am held. I part from my faithful and generous associate—I part from you all—with tender regret. The reflection saddens me that as a judge I shall never, again visit your beautiful city and prosperous state. But I shall never cease to think of you with affectionate kindness, and shall always regard my relations to you as among the most fortunate circumstances of my life. I hesitate to speak the sad word which makes me linger, but which must needs be spoken—farewell—and may the good Father of us all have you in His holy keeping."

Remarks of Judge Nelson: Judge Nelson closed with the following remarks: "I cannot permit the occasion to pass without expressing my hearty concurrence in the sentiments of the bar, uttered in such fit and appropriate language. The judicial circuit sustains a great loss by the retirement of Judge Dillon from the bench, of which he has been so bright and conspicuous an ornament. It is a great loss to us all. As a friend and associate for the past ten years, engaged in the common pursuit of administering justice in this district, I shall mourn his absence from the stated sessions of the court, and lament the loss of his counsels. His open, frank, and genial manners; his judgment, so well ripened; his learning, so varied, so extensive; and, above all, his love of truth and justice, so keen and instinctive, secured my respect at the outset; and I ever found I could rely upon his opinion with a confidence in its correctness which is rarely experienced. I will not speak of our social relations, which have been so pleasant and agreeable, but cannot forbear



thus publicly acknowledging my esteem for him as a man, and my high appreciation of his services as a pure, just, and impartial judge. I have known him better than you have; my opportunities have been greater, my associations more intimate. Where you have seen the mature and well-considered judgment, I have witnessed the extensive research, the untiring labor, and the zeal for the truth brought to the investigation of difficult questions of law and fact. I entertain towards him the warm affection of a brother, and part with him, as we all must, with deep sorrow. It is very gratifying, however, to know that he enters a new field of usefulness, which he is well adapted to adorn, and where he will have ample opportunity to elevate and ennoble our profession. My best wishes go with him. May he be spared to continue his useful life, and may the bond of friendship cemented during his official connection with the court in this district remain unbroken in the future. The request is eminently proper, and these proceedings will be spread upon the minutes of the court. It is so ordered.”

HOLMAN, JESSE LYNCH.

{For brief biographical notice, see 30 Fed. Cas. 1377.}

The following notice is reprinted from 2 McLean:

“In the spring of 1842, Judge Holman, of the district court of Indiana, deceased, and Judge Huntington was appointed in his place. Judge Holman was appointed district judge some years before Indiana was included in the seventh district. On the organization of the state government he was appointed one of the supreme judges.

of Indiana, and continued to serve in that capacity until a short time before he received the appointment of district judge. He commenced his professional life in Kentucky, but removed into Indiana several years before it became a state. Judge Holman was a sound lawyer, and a man of good mind. In all the relations of life he was most exemplary; and, as a judge, he was above reproach. His loss was regretted, universally, by the profession; and to his family and connections it was irreparable. He died as a good man would desire to die, in the full assurance of a blissful immortality.”

HOPKINS, JAMES CAMPBELL.

[For brief biographical notice, see 30 Fed. Cas. 1377.]

The following obituary is reprinted from 7 Biss. 8:

The Honorable James Campbell Hopkins, late district judge of the United States for the western district of Wisconsin, departed this life at his residence in the city of Madison, Wisconsin, on the 3d day of September, A. D. 1877, during the June term of the circuit and district courts of the United States for that district. On the 4th day of September, 1877, a meeting of the bar was held in the United States, court room at Madison, and was called to order by H. S. Orton, Esq., on whose motion S. U. Pinney, Esq., was made chairman, and Rufus B. Smith, Esq., secretary. On motion, a committee was named by the chairman, consisting of H. S. Orton, Geo. B. Smith, Wm. F. Vilas, J. C. Gregory and H. M. Lewis, Esquires, to draft and report suitable resolutions, expressive of the sense of the bar in respect to the death of Judge Hopkins.

The committee reported the following resolutions :

“Whereas, it has pleased Almighty God, in His inscrutable providence, to remove by death, our distinguished fellow citizen and professional brother, the Hon. James C. Hopkins; therefore.

“Resolved, that we especially condole with the bereaved and stricken family in their great affliction, and assure them of our deepest commiseration and sympathy, and while our weak words of well-intended consolation cannot assuage or mitigate their sorrow, we may be allowed to express the hope that he who has thus left them desolate, has passed into a happier existence, and that they will confidently submit to this painful dispensation of Providence, and put their trust in the ‘Father of the fatherless, and in the widow’s God.’

“Resolved, that in the death of our lamented friend, the bench has lost an able and an upright judge, our profession one of its most honored and distinguished lawyers, society one of its most useful and respected members, and the state one of its best and most prominent citizens.

“Resolved, that the community has seldom been called to mourn the loss of one so perfect in all the elements and accomplishments of manhood, whose mental structure and acquirements were so symmetrical and available, whose social qualities and manners were

so agreeable and attractive, and who was alike able and eminent as a lawyer and a judge. He was cut off in the midst of his arduous judicial labors and in the full maturity of his intellect and judgment, and when he had already achieved high honors and attained great success in the high position he occupied, with the promise and prospect of still greater usefulness and higher eminence in the future. Our memories of Judge Hopkins will always be agreeable. In all social relations he was ever cheerful, courteous and kind, and it seemed to him a pleasure to render personal and professional favors. Upon the bench he was prompt, systematic, studious and attentive, patient and impartial, modest and forbearing, yet dignified and firm. He had great natural aptitude and vast and varied learning as a lawyer, uncommon mental strength and resources, readiness of apprehension and perception, clear and honest judgment, and remarkable powers of reasoning, analysis and discrimination in investigation of all subjects and questions brought to the bar of the court or examined in judicial consultation.

“Resolved, that in Judge Hopkins and in his successful career in life, the young have an example worthy of imitation, in self-reliance, industry, patience, economy and success.

“Resolved, that a committee be appointed to present these resolutions to the circuit and district courts of the United States, and to the supreme court and circuit court of the state, in this city, and request their entry of record.”

The resolutions were seconded, and appropriate remarks having been made by several of the members of the bar present, were then unanimously adopted. The chairman appointed H. S. Orton, Geo. B. Smith, and I. C. Sloan, Esquires, a committee to present the said proceedings to the courts named in the resolutions, to be there entered of record.

To the Hon. S. U. Pinney of Madison, Wisconsin, the reporter is indebted for the following sketch of the life of Judge Hopkins:

“James Campbell Hopkins was born in the town of Pawlet, Vermont, April 27th, 1819, and was at the time of his death in the fifty-ninth year of his age. His ancestors both paternal and maternal were Scotch-Irish. When about five years of age, he with his parents removed to the town of Hebron, Washington county, New York, and not long afterward to the town of Granville, where he resided until he commenced his professional career. He was educated at the academy in North Granville, and in the spring of 1840 entered upon the study of law in the office of James McCall, Esq., at Sandy Hill, New York, and afterward continued it in the office of Messrs. Bishop & Agan, at Granville. He was admitted to the bar at the January term of the supreme court, in Albany, in 1845, and immediately after began the practice of his profession with Mr. Agan, at Granville, continuing with him about two years, and then forming a law partnership with Mr. Bishop, which continued until he removed to Madison, Wisconsin, in the spring of 1856. He was postmaster at Granville for a period of five years, and in 1853, he was elected to the senate of New York, from the district then composed of the counties of Saratoga and

Washington; he was an active, influential and efficient senator, and a member of the judiciary committee of that body. Upon his settlement in Wisconsin, he became associated in practice with Hon. Harlow S. Orton, and at once entered upon a large and successful business. Soon after his arrival in Wisconsin a Code of Practice substantially like that of New York, was adopted, and he performed the principal work in arranging it, and adapting it to the provisions of the constitution and judicial system of the state. Politically he was an ardent Whig, so long as that party existed, and on the formation of the Republican party, allied himself and acted with that organization; but during his residence in Wisconsin, he gave but little attention to politics, his time being entirely occupied with the duties of his profession. He manifested but little or no ambition for the doubtful honors in modern political life. He was an excellent lawyer, well read in his profession, and entirely devoted to its duties. With a clear discriminating mind, familiar with the practical affairs of business men, and the methods of business transactions, and with a judgment rarely at fault, he was a cautious, safe and reliable counselor. He was a close student, and prepared his cases for trial or argument with care, and was almost certain to be ready whenever they were reached, and for any emergency which might be reasonably anticipated. In the presentation of them, whether to the jury or the court, he was clear in statement, incisive, vigorous and able in argument, and Keeping clearly in view the practical necessities of the case, he sought rather to instruct and convince, than to entertain or captivate his hearers, and whether at nisi prius or before the appellate court he was a wary, vigilant and formidable opponent. Quick to detect an error or mistake, he was certain to take advantage of and expose it. In his intercourse with his professional brethren he was obliging and courteous,

and with an extensive fund of general knowledge he was a pleasing and instructive conversationalist. Added to these advantages, his habits of great industry, and promptness in the discharge of his duties, personal as well as professional, enabled him to acquire an extensive and lucrative practice, and a prominent position in the front rank of the bar of the state.

“By act of congress of June 29, 1870, Wisconsin was divided into two judicial districts, the eastern and the western, and on the 9th of July, 1870, Mr. Hopkins was commissioned as district judge for the newly-created western district. He at once entered upon the discharge of the duties of his position, and until his last illness he devoted with unremitting zeal and industry all his learning, his extensive experience and distinguished ability to the requirements of his judicial station. A love of order and prompt and exact administration of the law, and his kindly courtesy and unwearied patience, rendered practice in the court in which he presided pleasant and attractive. Counsel never had occasion to complain that they had not been fully and fairly heard before him. or that even an implied restraint had been placed on an exhaustive discussion of all their points. In the hearing and decision of equity causes, and in the administration of the system of bankruptcy then in force, with which he became thoroughly conversant and skilled in its prompt and efficient administration, he had few, if any, superiors. He delivered many valuable opinions which stand deservedly high as authority on questions of bankruptcy law. Long familiarity with and wide and varied experience in business transactions, enabled him to easily master the details of a cause, and readily perceive the precise point upon which it depended. He was quick to detect any artifice, fraud, or sham, and prompt and resolute to expose and rebuke it. The resolutions of the bar give such full expression to his traits of character, personal, professional and judicial, that further statement seems superfluous. During the seven years of his judicial life, when not engaged in his own district, his time was almost constantly occupied in holding court in other districts of the circuit, and frequently at Chicago, where he was highly esteemed as an able judge, and wherever it was his fortune to preside, he won, as in his own district, the confidence and respect of the profession and all interested in the orderly, intelligent and impartial administration of justice. He was a genial gentleman, an excellent lawyer, and an able and faithful judge.”

INGERSOLL, CHARLES ANTHONY.

[For brief biographical notice, see 30 Fed. Cas. 1878 ]

The following is reprinted from 4 Blatchf. 517:

The following proceedings took place at a meeting of members of the bar, held in the city of New York, on the 9th of February, 1860, on the occasion of the death of the Honorable Charles A. Ingersoll, district judge of the United States for the district of Connecticut. The Honorable Samuel R. Betts, district judge of the United States for the southern district of New York, presided at the meeting. The Honorable Josiah Suther-

land, a presiding justice of the supreme court of the state of New York, the Honorable Joseph S. Bosworth, chief justice of the superior court of the city of New York, and the Honorable Charles P. Daly, first judge of the court of common pleas for the city and county of New York, were vice presidents of the meeting. Kenneth G. White, Esquire, clerk of the circuit court of the United States for the southern district of New York, and Robert D. Benedict, Esquire, were secretaries of the meeting. On motion of the Honorable Truman Smith, seconded by Daniel Lord, Esquire, the following resolutions were unanimously adopted, after the meeting had been addressed by the Honorable Truman Smith, Daniel Lord, Esquire, James T. Brady, Esquire, and the Honorable John McKeon:

“Resolved, that the bar has received with deep concern, information of the removal, by death, of the Honorable Charles A. Ingersoll, judge of the United States for the district of Connecticut, and, for several years past, and during his last judicial service, sitting as judge in the courts of the United States for this district, whereby not only the legal profession of the two states, but the public generally, have sustained an irreparable loss.

” Resolved, that we entertain a high sense of the uniform courtesy, firmness, industry, intelligence, great learning, and strict impartiality and rectitude with which he discharged his official duties, and that his example may well be propounded for the imitation of the youthful members of the legal profession, and especially of all such as aspire to a high place in the confidence and affection of their fellow-men.

“Resolved, that our sense of the disinterestedness of the deceased judge, and of his devotion to his public duties, is greatly enhanced by the circumstance that his exercise of judicial functions, in this city, was uncompensated, except that he earned in our midst a name and character of more value than riches.

“Resolved, that we proffer to the family and friends of the deceased, on this occasion, our heartfelt sympathies for the loss they have sustained. But we trust that they will, after referring this painful event to the dispensation of a wise Providence, find many consolations in the high name and spotless character which their departed relative left behind him.

“Resolved, that a copy of the proceedings of this meeting, signed by its officers, be transmitted to the widow of the deceased, and that the same be furnished for insertion in the newspapers, both of this city and of the city of New Haven.”

On motion of the Honorable Gilbert Dean, it was ordered, that copies of the proceedings of the meeting be transmitted to the district court of the United States for the district of Connecticut, and to the circuit and district courts of the United States for the southern district of New York, with requests that they be entered on the minutes of those courts. The meeting was then adjourned.

JOHNSON, ALEXANDER SMITH.

[For brief biographical notice, see 30 Fed. Cas. 1379.]

The following proceedings of the bar are reprinted from 14 Blatchf. 555:

The members of the bar in the city of New York met in the United States circuit court room, on February 5, 1878, in pursuance of a call numerously signed, to take action with reference to the death of the Honorable Alexander S. Johnson, circuit judge of the second judicial circuit of the United States. The meeting was called to order by Hon. Henry E. Davies, who said: "I have been requested by a number of members of the bar to propose, as chairman of this meeting, the Hon. Samuel Blatchford." Judge Blatchford was unanimously elected president of the meeting.

Mr. Davies then said: "I have also been requested to propose, as vice-presidents of this meeting, the Hon. Charles L. Benedict, Hon. Nathaniel Shipman, Hon. William J. Wallace, Hon. Hoyt H. Wheeler, Hon. Noah Davis, Hon. William E. Curtis and Hon. Charles P. Daly; as secretaries, Hon. Stewart L. Woodford, John I. Davenport, Esq., and George F. Betts, Esq." The gentlemen named were elected unanimously.

The officers having taken their seats, William Allen Butler, Esq., spoke as follows: "Mr. Chairman,—I have been requested by the committee having charge of the arrangements for this meeting, to present resolutions expressive of the sentiments of the bar of New York in reference to the occasion which has led to this meeting. There are present, Mr. Chairman, eminent members of our bar, who were associates of Judge Johnson during his career as a lawyer, and others who were his associates upon the bench of the highest court of our state; and from these gentlemen we shall no doubt hear, in fitting terms, in reference

to the character, the attainments and the public service of Judge Johnson, which, necessarily, are only briefly alluded to in the resolutions which I shall have the honor to present. If I am permitted a single word of preface, I will take leave to say that a gathering like this seems to me to afford a very striking illustration of the community of interest—I might say the identity of interest—between the members of the bench and of the bar, as co-workers in the same sphere of duty. It is more than a quarter of a century since Judge Johnson left the active practice of the profession here in New York, to take his place as one of the judges of the court of appeals, as then constituted. And yet, during all the interval of time since he left us, until now that we meet to pay this tribute to his memory and to his public services, we have always claimed him as a member of this bar. We have seemed to be identified with him in the many occasions when it was our duty and his to act together in reference to great and important questions relating to commercial law, and to all the other interests which are so frequently involved in the discussions of the profession and in the decisions of the courts; so that we have been still his associates. We have been before him as advocates, and have had the opportunity of witnessing the impartiality, the candor, the learning, the integrity which he brought to the discharge of his official duties; and we have also felt that there never was any interruption of that kindly feeling which to so large a degree existed towards him on the part of all the members of the profession who were brought into contact with him when he was one of us, and which was continued on his part during his long judicial service. When we last saw him presiding in the circuit court a few weeks since, it was painfully apparent that he was yielding to the burden unwisely devolved upon a single judge, which he had only too willingly assumed, and under which he struggled to the utmost of his ability, in a manner which entitles us to say that his effort to sustain it was heroic. In the circumstances of his death we find abundant occasion for regret; but he has left us an example of untiring devotion to duty; and as we now, standing beside his bier, look back over this honorable and finished career, I think we may all take from it a high incentive to that continuance in patient, thorough and effective service which, alike for the humblest as the highest toiler in our ranks, is its own satisfaction and reward. By your cleave, Mr. Chairman, I will now offer the following resolutions:

“ The members of the bar of the city of New York, convened to take action in reference to the death of the Honorable Alexander S. Johnson, late circuit judge of the United States, for the second judicial circuit, hereby resolve as follows:

“ Resolved, that we have learned with profound regret of the death of Judge Johnson, which deprives the bar of this city and state, and of the circuit of which he was the honored judicial head, of a wise and able judge and an upright man, eminent in the public service, and justly held in the highest esteem in all the relations of life.

“ Resolved, that in the professional career of Judge Johnson, and in the various public positions filled by him—as a judge of the court of appeals, to which he was elected in



1851 for the full term of eight years; as a commissioner under the treaty of July 1st. 1863, with Great Britain; as a member of the commission of appeals, to which he was appointed in January, 1873; as a judge of the present court of appeals, from December, 1873, to January 1, 1875; and in the federal judiciary, as circuit judge of the second judicial circuit, from October, 1875, to the date of his death—the discharge of his high functions was marked by a constant and undeviating devotion to duty, by high intellectual ability and by absolute rectitude of purpose.

“In the retrospect of his public life we recall these conspicuous traits of his character, and of his judicial action, alike in justice to his memory, and in grateful recollection of his services to his state and country. Thoroughly grounded and versed in the science of the law, and with a large experience in its practice, it was his endeavor, as a jurist, to apply those well established principles, which are the basis of the due administration of justice, so as to reach in each particular case a conclusion resting upon their sure foundations. This characteristic of his mind eminently fitted him for the duties of the bench of an appellate court, and is amply illustrated in his reported opinions, which are distinguished for clear and lucid expositions of legal principles, and their close and discriminating application to the most intricate and important questions of law and fact. While the reports of our highest state court abundantly attest the fulness of his learning, the breadth of his intellect and his ceaseless industry, the rare personal qualities which gave a peculiar charm to his character, evinced in the unvarying urbanity and patience, the genial courtesy and self-control, the cordial sympathy, without bias and interest, without partiality, which with him were inseparable from the discharge of duty, will be specially cherished by his associates and contemporaries, and should be perpetuated in this testimonial to his worth. Our sorrow at the termination of his useful and honorable life, heightened by the consciousness that it was hastened by the undue pressure of judicial labors and responsibilities against which he struggled with self-sacrificing toil, finds a solace in the reflection, that, to the last, he was an example of fidelity to duty, and that, as a minister of justice, he died in the service she imposed.

“Resolved, that a copy of these resolutions, attested by the officers, of this meeting, be presented to the circuit court of the United States in this district, and to the court of appeals of this state, in such manner as shall be directed by the chairman, for entry on their minutes, and that a copy be also transmitted to the family of Judge Johnson.”

Hon. George F. Comstock spoke as follows: “I beg to second the resolutions which have been read. The attention of the bar, of the bench and the public has been arrested by the sad event which is the occasion of this meeting. We are met together as members of a common profession, to give expression to the sense of the loss which we feel in the death of Alexander S. Johnson. That event was unexpected to us; indeed, the intelligence of it came upon us with a startling suddenness. It is very well known that some two or

three months ago his health had been giving way under the accumulated labors imposed upon him by the high judicial position which he so-honorably and so usefully filled. It is also known, that, now only a short time ago, he went to the island of Nassau for the benefit of its mild and genial climate, in the hope and expectation, in which we shared, that his health would be re; stored, and his usefulness continued. The first news we hear from him is the sudden and sad announcement of his death. Judge Johnson was eminent as a lawyer, a jurist and a citizen. I had the rare good fortune to know him, I think I may say intimately, during nearly the last twenty-five years of his life; and it is to me a source of profound satisfaction to believe that I enjoyed his friendship, as I gave him, most unreservedly, my own. The impression made upon me by his talents and learning, by the purity of his life, by his genial nature and the graces of his character, are with me a recollection which will remain as long as memory lasts. His career at the bar was comparatively a brief one, and mainly, if not wholly, in the city of New York. I was never a witness of that career, but it must have been one of laborious study and practice, for it made him one of the most accomplished lawyers that I have ever known. At an unusually early age for elevation to the bench, the display of his learning and powers in the highest court of the state attracted to him the attention of the profession generally, and their appreciation of his rare qualities was-exhibited by his nomination and election to that tribunal. He became a judge of the court of appeals at an earlier age than any other person upon whom that distinguished honor had been conferred; nor has it happened more than once, if at all, since that time. During the succeeding

eight years of his life, and while, according to ordinary experience, he had scarcely reached the full maturity of his powers, he served in that capacity, and, as the whole profession witnesses, served eminently and usefully. At the expiration of that period the mutations of politics, the shortness of judicial terms, and the elective system, deprived the state for a considerable number of years of his services in a judicial capacity. Retiring from the bench, he became a resident again in his native city of Utica. The well-earned reputation which he enjoyed for learning, ability, perfect independence and impartiality, marked him for selection as the voluntary judge or arbiter in cases of private submission to him by the parties. I happen to know very well that he became the standing referee of the interior of the state in many cases of unusual importance, submitted to him by the parties with the same confidence in his learning and in his judgment which they would have in the decisions of courts of the highest authority. The creation of the commission of appeals restored him to judicial life, 'He held a seat in that high tribunal by appointment, but for only about one year, when he was transferred, also by appointment, once more to the court of appeals, to fill a place made vacant by the tragic death of Judge Peckham, who was buried in the ocean by the sinking of the steamer Ville du Havre. At the expiration, or soon after the expiration, of that official term, Judge Johnson received, now about three years ago, from the president and senate of the United States, an appointment to the distinguished position of judge of this circuit, by far the most important of the circuits into which our federal jurisprudence is divided. He held that office to the close of his life, and we believe that he sank beneath the crushing weight of the labors which it imposed-upon him. And in this connection I ought to mention the fact (which is contrary, I believe, to a received impression) that, when he ceased from his labors, prior to the October term, he had almost entirely cleared his docket of cases argued. During a considerable portion of Judge Johnson's judicial career, it happened to me to be associated with him. With him were also associated Denio and Selden, names which are high on the roll of judicial fame. The relation to him to which I refer enables me, I think, to form a just judgment of his rare and excellent qualities as a lawyer and a jurist. I have nothing to say of his mental peculiarities; for he had no peculiarities or eccentricities of mind. His mind was simple, direct and strong. If any quality or sentiment belonging to him as a judge was in predominance, it was his prevailing and pervading love of justice and of right, as ascertained by sound and beneficent rules of law. I think his purely intellectual faculties had their highest exercise in the quick and ready appreciation of the facts of a case in their true relation to the principles of law. He, more rarely than others, mistook mere resemblance in circumstances for analogy in principle. Few, if any of his contemporaries had a more varied and extensive knowledge of the law. None had a more discriminative judgment. He had the rare common sense which looked through the false, and took in the true relations of a controversy; but it was a common sense cultivated and adorned by the learning of the

books. The duty of impartiality in a judge is so plain that it is only feeble praise to say of a judge that he is impartial. But I think I can truly say of Judge Johnson, that his was the most absolutely impartial mind that I ever knew. The parties to a controversy were to him a mere abstraction. He looked always directly at the merits of a controversy without any distracting thought or wish. To me he seemed always to be inaccessible even to the subtlest of those influences which sometimes, it must be confessed, are a disturbing weight in the even balances of justice. The judicial opinions which he has left will be an enduring record. They will long be read and appreciated as models of neatness, simplicity and precision. Their characteristic and their charm is the utter absence of ambitious ornament and display. They are truly the reflex of that modest and unassuming character which distinguished him in all the relations of life. He was wholly free from vanity or self assertion. If he had pride, it was only the pride which lifted him above all meanness and wrong. Such as I have most feebly portrayed him, was our deceased friend and brother. We shall see him no more, but his eminent and honorable career in the public service, illumined, as it was, by the radiance of his private virtues, will long be to us a memory to cherish, and an example of inestimable value. Our holy religion tells us to believe that he has exchanged earthly toil for eternal rest."

Hon. E. C. Benedict then said: "Mr. Chairman,—Although I knew Judge Johnson during all the time that he was at the bar in this city, and subsequently on the bench—I may say that I knew him very well, personally and familiarly, though not intimately—I do not rise to say anything with regard to his professional and judicial career, except that from the heart I shall vote for the resolutions which have been read, and that I concur in the very excellent remarks which have been made by Judge Comstock and Mr. Butler. I shall say only a word or two with regard to Judge Johnson in another aspect of his public and personal life. I had the honor to be associated with him during all the time that he was one of the regents of the University of the State of New York, and although the duties of that office are unostentatious, they are highly useful and important to the state. It is not always that gentlemen who follow the law with so much earnestness, so much zeal and so much real love for its principles, find time to step aside into the more graceful pursuits of literature and science. Judge Johnson came into the board of regents fully sensible of the importance of its duties; and he brought to their exercise not only that wisdom, acuteness and impartiality which characterized him as a lawyer and a judge, but the love of letters, also, and generous learning with which he was deeply imbued. He came into the board as the successor of the late eminent Rev. Dr. Campbell, of Albany, who decorated the metaphysical theology and earnest and devout faith of one of the strictest sects of our religion with the generous and refining influences of secular learning. Judge Johnson was immediately made the successor to Dr. Campbell on the committees on the state library and on the state cabinet of natural history. The state library was at that time, or a little

before, put into the hands of the regents as trustees, to manage and care for it. They found it a library of some ten thousand volumes, with many broken sets and shattered bindings, carelessly kept and carelessly used. They have made it, to-day, one of the best, and best conditioned libraries in the country, containing more than a hundred thousand volumes. On that committee Judge Johnson's bibliographical knowledge, exquisite taste and great culture in books were made exceedingly useful in filling the gaps in the library, in adding to its stores, and in making it what it should be—a permanent and useful library in all departments of learning and literature. His position on the committee on the state cabinet was no less agreeable to him. Mr. Agassiz once said in my hearing, on a great public occasion, that the first question of a man of science in New York was, 'which is the way to Albany?'—the home of that great cabinet and of Professor Hall, the geologist and paleontologist of the most world-wide reputation, who is the curator of the cabinet. One of merely professional tastes might belong acquainted with Judge Johnson without finding out that natural history might have been all in all his study, so quietly did he indulge in the charm of those studies. He knew enough of them all to be even more than merely intelligent in their literature and science. He was himself a careful observer of objects, especially with the microscope, and he was a general reader of the literature of those subjects. He knew not only the theories that are now fresh, but also those that were fresh and believed in by everybody and exploded before he was born. His occasional hours, therefore, with his committee and with Professor Hall in the cabinet, were among the luxuries

of his life. He exhibited the same qualities as a member of those committees and as an individual associate of the members of the board and in its meetings, which he exhibited on the bench and at the bar, and in social life, and which have been alluded to with such just feeling and truth by Judge Comstock and Mr. Butler; the same personal amenity, the same cheerfulness and the same quiet and unostentatious way of doing his duty under all circumstances. He left the board of regents by resignation, because the judicial appointment which he had received rendered him, as he thought, incompetent to hold the two offices; otherwise, as he often said to me, he would have been glad to continue in the board, and lamented that he could not be with us at our meetings and participate in our duties as he had formerly done. Although the office of regent is one of much labor, no pay, and little glory, still it is well to tell of such a man as Judge Johnson, that he considered usefulness as the best pay and the truest honor, and that he fulfilled all the duties of that non-professional and unsalaried office, with the same ability and faithfulness, and the same personal loveliness (if I may use such an expression) that he did the more distinguished public offices which he filled."

Edgar S. Van Winkle, Esq., said: "Mr. Chairman, and gentlemen of the bar—After the very expressive and eloquent resolutions, and after the just and extended remarks of the gentlemen who have spoken in regard to Judge Johnson's accomplishments and character. I shall not attempt to detain you by any repetition of the views which, have been so well put before you; for in attempting to do so I should only display my own inferiority. Having been requested to make some remarks at this meeting, I have consented to do so; but, holding the same views as those gentlemen by whom the just character of Judge Johnson has been so well and so particularly set forth, it would seem that there was but little left for me to say; and there is but little, except generalities. The custom we have, bench and bar, of meeting as one body on the death of any distinguished member of our profession, whose character we have revered and whose talents we have esteemed, is a beautiful custom, I think; one which tends to keep alive in our hearts a feeling of affinity with one another, a feeling that our connection with our departed friends does not cease entirely on their death, and that in our memories their talents and their virtues are embalmed, and that they serve as an incentive to us to endeavor to follow in their footsteps. And more particularly when a prominent occupant of the bench, one who has worthily and successfully for a long period of time fulfilled the difficult duties and functions of that position departs, it seems more than ever proper that we should meet again together, the bench and the bar, and repeat in such meeting our estimate of the character of our departed brother. A judge in any part of this circuit, the territory embraced by this circuit of the United States court, has anything but a sinecure. We know and we see that in all the superior courts a judge has a burden upon him which few constitutions, mental or physical, can bear. And I often admire the courage which enables men who know what is

awaiting them in a short time, to assume the burdens of such an office as this. Therefore, my friends, we should rally to the support of the custom, and speak a good word in behalf of every one of those gentlemen, those martyrs, who, having worthily fulfilled the office of judge, have then passed away. When, unexpectedly to me, I was requested to take a part in these observances, I felt inclined to refuse; but, upon consideration, it seemed to me I had no right to do so. And, moreover, I feel towards the worthy members of our profession that degree of respect and affection, I may say, that I would not refuse to contribute what little I could, however inconsiderable it might be, to the preservation of the custom which we have adopted in this country, and which we are now carrying out; and I feel a share of that loyalty which impels and justifies even the meanest clansman in casting his mite, however slight it may be, upon the cairn of a fallen chieftain. And the judge whom we lament was a chieftain; he was a great judge; he had those qualities which belong more especially, in their influence and fitness, to the judicial office. He had honesty, he had industry, he had intelligence, he had learning, he had fearlessness, he had firmness, and he had a love for the duties he was called to perform. As to his learning, the decisions with which our books are filled bear testimony. It needs no further remarks on my part. I can add nothing to what has been so well said here to-day by gentlemen well able to speak of the value of those decisions, and to judge of the learning which they embalm. That he was industrious, I think cannot be doubted, apart from the asseverations of his friends to-day; because I am persuaded, from what I have seen, that a person who filled the judicial offices which he did—and more especially in this circuit—without industry could not with honor have survived a single term, so-great and important were the interests before him, so pressing the necessity for decision. It is hardly necessary to extend the catalogue of qualities which I have named as those which constitute a, great judge. As to the integrity and impartiality of Judge Johnson, I never heard the slightest impeachment of it; nor do I believe but that the persons the most inimical to Judge Johnson (for even the best men have their enemies) would abstain from making such a charge as that. If we look at his decisions, if we read them carefully, we shall see that, though he was a man, as we are, and subject to all the infirmities of human nature, yet when he entered the judicial office he became removed, as it were, from those infirmities. And you perceive all through his decisions, whatever they may be, that in his mind there stood, over and above all, the figure of justice with the flaming sword that would not permit anything unworthy to enter the sanctuary of his mind. There can be but few subjects more worthy of our consideration than that of a member of the profession who has reached the highest attainable honors it offers at the bar, and eminent judicial honor on the bench—I say there can be few subjects of contemplation pleasanter to the legal mind than that of such a man, subject to all the infirmities of nature, subject to all the influences that cunning or ability could spread around him, subject to be misunderstood and misrepresented, and yet who,

by force of his inward contemplations and his own respect for virtue and right, has lifted himself above the fogs and tempests of the world, to a serene height, where he can look down upon the follies and weaknesses of the world as one who has passed through and over them, and can, from his elevation, announce the decrees with which law and equity, the twin off springs of justice, inspire him. Well and ably did he fulfill all his functions; and I trust that all here are united in one feeling, that in renewing our friendship for each other we at once strengthen the bond which binds the bar and bench together, and raise a tribute of affection to the memory of our friend, and of admiration for his many virtues.”

Luther R. Marsh, Esq., spoke as follows: “Mr. Chairman, and gentlemen—An early acquaintance with Judge Johnson, ere he came to the bar, and since continued, may give me warrant perhaps, for a single word. Were I to state my thoughts in a condensed form, I should but re-word the resolutions. They express, I am persuaded, the sentiment of the bar—of the bar of this city and of the bar of the state—at this sad bereavement. He, to honor whose memory we have met, received an inheritance from his country which he was proud to maintain. His mother was the daughter of the second son of President John Adams. As early as 1797—ere Utica had received the christening of its present name—while yet it was known only as ‘Old Port Schuyler,’—his grandfather, Bryan Johnson, was a prominent and valued citizen, and contributed largely to the impulse the infant received in growth and prosperity. Concurrent with the present century, from the beginning down to recent date, his father, Alexander B. Johnson, was one of the foremost men of Utica, in commerce, in influence, in finance, in literature.



And so it happened that the departed jurist came to his profession through a youth and education of uncommon advantage. All that could be done by affluence, by social position, by opportunity, by appliance, by stimulus to effort, was his; and these advantages fell not on unfruitful ground. He had an intuitive apprehension, a great intellectual capacity, and was quick to appropriate and assimilate the benefits that I have mentioned. He took delight in scientific research, and was a man of general culture and scholarly attainments. Not content with surface views, he liked to think out principles to their last analysis. He was peculiarly well fitted, as I think, for success at the bar, for forensic debate, and for the presentation and argument of the principles that obtain in the administration of justice. He was endowed with a sweet and magnetic voice, and a most winning manner. But he was not to stay in the arena long. The bench was his destiny. It was there that the largest portion of his business life was spent, in the manner narrated by the resolutions and by the gentlemen who have preceded me—in the exercise of the Godlike prerogative of applying the principles of law to the rights of men. That he performed this duty with inflexible integrity and rare ability, in recorded opinions which stand as landmarks in the troubled sea of controversy, and to the acceptance of all, is conceded by all. I have often thought, sir, that if fortune had given him a seat on the bench of the supreme court of the United States, at Washington, he would have been most admirably adapted for the wider range of that majestic tribunal, before which come, for adjudication, the conflicting interests of the whole country, and whose voice is authoritative to its utmost bounds. Sir, I have noticed, by the newspapers, that the bar of Utica, in his own native county of Oneida, are meeting to testify a similar honor to that which we render to his memory today. The city of Utica, as the city of New York, claims him as her own. That city, sir, has done credit to her position as the geographical centre of the state, by making it, from early time, the legal centre as well. She has produced the ablest lawyer, as such, whom our state, and, as I think, our country, has seen—Samuel A. Talcott. His scarcely less famous partner, William H. Maynard, has sent down to us a reputation for transcendent ability as a lawyer, and fabulous powers of memory. Since that time she counts, among her ornaments, Greene C. Bronson, Henry R. Storrs, Joseph Kirkland, Joshua A. Spencer, Samuel Beardsley, Hiram Denio, and William Curtis Noyes. She has furnished for our state, in succession, three attorney generals—Talcott, Bronson, and Beardsley. At the time of the death of the eminent jurist whom we mourn, she filled two seats on the bench of the highest courts of the United States: one in the circuit court, which his lamented death leaves vacant, and one on the supreme bench at Washington. And even now, at this very hour, the senatorial representation of the great state of New York is filled by her two citizens, Roscoe Conkling and Francis Kernan. Utica, so highly favored, now enrolls, with pride, while yet in sorrow, the name of Alexander S. Johnson on the bright scroll of her departed sons. We, of New York, claim him too; and there, as here, the bench and

bar, laying this tribute on his tomb, in a common sympathy mourn their loss, and hold his memory in honor.”

Calvin G. Child, Esq., then said: “Mr. Chairman, and gentlemen—I have heard the resolutions read, and although a stranger to most of you, I desire simply to express, in common with you of the New York bar, the sentiment which we of Connecticut, being so closely allied with you in the second circuit, feel upon the occasion which has called you together. The pressure of the judicial duties of Judge Johnson has kept him out of our state almost entirely, except in the matter of appeals. His predecessor, although a native of Connecticut, came to the bench of this circuit with a reputation acquired in your state. We knew him Whom you mourn to-day by a like judicial reputation ; and I could not keep silent, sir, with these proceedings before me, without taking advantage of the opportunity to express our sympathy, and our participation in these ceremonies to-day, and the respect we all feel for the judge who has been loaned to us by the state of New York. There is an old Japanese custom, sir, that when the body of the dead passes, each neighbor shall carry it for a short distance, as a neighborly duty which they owe to the memory of him who has gone; and in that spirit, on behalf of the bar of Connecticut, I would to-day with you stand around the bier of Alexander S. Johnson, and speak for our bar the sentiments that we have of respect for his memory, his judicial talents and his judicial integrity.”

The resolutions were adopted unanimously

The president, in accordance with the resolutions, appointed Mr. Benjamin D. Silliman and Mr. William Allen Butler a committee to present the resolutions to the court of appeals of this state and the circuit court of the United States for the southern district of New York.

#### JOHNSON, BENJAMIN.

[For brief biographical notice, see 30 Fed. Cas. 1380.]

The following notice is reprinted from *I Hemp*, vii.:

The late Benjamin Johnson of Arkansas, who sat in those courts for nearly thirty years, and was their pride and ornament, generally wrote out his opinions, and before his death placed such as had been preserved in my hands. Of him I cannot speak without emotion; and when I remember that he died full of juridical honors, beloved by all, without an enemy in the world, admired for the purity of his public and private character and for his devotion as a Christian, respected for his unbending integrity and for a heart full of kindness to all, I cannot but say to myself we shall not see his like again. He was a safe, patient, and able judge; and the judicial distinction which he won extended far beyond the boundaries of his state, and we may well wish that the judiciary of our country was always represented by such men.

LEAVITT, HUMPHREY HOWE.

{For brief biographical notice, see 30 Fed. Cas. 1382.}

The following proceedings upon his retirement from the bench are reprinted from 2 Bond:

On Thursday evening, March 30, 1871, a banquet was given by the bar of the southern district of Ohio at the St. Nicholas Hotel, in Cincinnati, in honor of Judge Leavitt. It is certain that a company embracing more eminent legal talent never assembled in Ohio. The entertainment in all of its appointments was unexceptionable. At the head of the table was seated the Hon. Henry Stanbery, Judge Leavitt, the guest of the evening, and other distinguished persons. At 11 o'clock, Mr. Stanbery, rising, addressed the assembly.

Address of Mr. Stanbery: "Gentlemen: No more agreeable duty could have been assigned to me than that of presiding at this banquet. Lawyers seldom come together as a body except to pay a last tribute of respect to the memory of a departed brother. Hard-worked as a profession, it is a rare thing for us to meet together for social enjoyment. No other profession stands more in need of such recreation, and yet none sees less. I hail, therefore, with great pleasure, this gathering of the bench and bar. But, gentlemen, it is not that consideration alone that makes this meeting an agreeable one, so much as the particular occasion which brings us together. We are met to express our respect and esteem for our honored guest upon his retirement from the bench. Perhaps there is no one present who has for so many years stood in the relation of lawyer to judge as I have occupied toward the friend who sits by my side. I doubt not it was this consideration more than any other which moved the committee to place me at the head of this board. On July 21,

1834,<sup>1</sup> was present at a session of the district court at Columbus, when the commission of Judge Leavitt was read, and when he took his seat as judge of that court. I refreshed my recollection by examination of the journal of the court, yesterday. My impression then was, that during all the time which has since elapsed. Judge Leavitt was never absent from a regular term of the court. I again referred to the journal, with the assistance of an obliging deputy clerk, and must confess that the record did not sustain me. We did find one term at which Judge Leavitt was not on the bench, but it must be added that it appeared from the journal that at that very time, though unable to leave his distant residence, he was busily engaged in hearing cases 'at chambers.' Where shall we find another instance of faithful service so long continued and so punctually performed? But this is not all. The question is not merely how long, but how well. The answer to this question needs no reference to the journal, no profert of the record. I stand here as a living witness, surrounded by a cloud of witnesses, to give the answer. The judicial station requires something more than long continued services. It requires diligent study, patient attention, strict impartiality, purity of life, social as well as official, good temper, and courteous demeanor. I have practiced the law for many years and in many courts, and I can say, without hesitation, that I have never practiced before any judge in whom these virtues were more fully illustrated. After the long career of public duty, our venerable friend retires to private life without a stain upon the judicial ermine. In a few days another judge will sit in his accustomed seat. Let us hope that the coming man may enjoy as long a career of usefulness, and earn as good a title to the respect and affection of the bar as his predecessor."

Mr. Stanbery then proposed the first regular toast of the evening, as follows: "Our Honored Guest." In response, Judge Leavitt said:

Remarks of Judge Leavitt: "Mr. President and gentlemen: I have often, in the course of my life, had occasion to wish that I had some of the powers of an orator. I regret to say that this high qualification has never pertained to me, and now I feel greatly embarrassed and very much at a loss to respond in fitting terms to the kind utterances of my learned and excellent friend, the president of this meeting, and the sentiments contained in the toast. It was the remark of the celebrated Edward Burke, the English statesman and philosopher, that the legal profession had a contractile influence upon the intellect, as well as upon the social affections. This language, of course, was made applicable to the English bar. The learned orator had never known much about American lawyers. [Applause.] It affords me great pleasure to utter upon this occasion my entire dissent from the opinion expressed by the eminent Mr. Burke, in regard to the bar of this country. From my long association and intercourse with them, I have every reason to believe, and to infer that the sentiment uttered by the distinguished statesman to whom I have referred, has no application to the bar of the United States. There is not only the mental qualifications

and accomplishments belonging to the American bar which pertain to any other calling or profession, even of the highest literary order, but in point of moral qualities they are not inferior to other classes and descriptions of persons. If I needed an evidence of the truth of my own position in this regard, I think I might properly point to the present assembly and the occasion upon which they have met. You are not here, my friends, to celebrate or memorialize the incoming of a new judge to an official position. You are not here under circumstances that show you to be actuated by selfish or interested motives. You are here simply to commemorate the fact that an old gentleman who has been very long upon the bench is about to retire from that office, to civil life, to a place and a position where he can never hope to exercise any official patronage or to confer favors upon others, professional or otherwise. In other words, you are doing honor to an ancient judge without expectation of favor from his hands hereafter. I allude to this fact to show that your conduct upon this occasion is entirely devoid of any selfish motive or incentive, and hence I derive the argument that there is no defect in the heart of the American bar. [Applause.] Gentlemen, the compliment which has been uttered by my excellent and long-known friend, the president of this meeting, is one to which I can not respond. He has done me justice, and more than justice. If there is any merit in a very long judicial life—in discharging the duties of a judicial station with honest purposes and motives—then I grant that the compliment may not be undeserved. If, however, it is intended to accord to me the merit and the high distinction of great learning, great judicial ability, then I fear the compliment is not deserved. I have always endeavored to hold the scales of justice with a firm and equal hand. [Great applause.] I could not claim, without extreme arrogance, that I have not committed many errors and mistakes in my judgment. I have no doubt that I have; but as it is human to err, I have no right to claim any exemption from the common lot of humanity. I will remark, as the fact has been referred to by my learned friend, that in July, 1834,<sup>1</sup> I first took my seat upon the bench of the district court. At that time the whole state of Ohio formed one judicial district, and the courts were then located at Columbus. Up to the time of the division of the state into two districts, in 1855, there was comparatively little business either in the circuit or the district courts of the United States. My friend will recollect distinctly that the more important cases that came before the circuit court prior to the division of the state, were cases involving controversies in relation to the title of land in the Virginia military district; and I may remark here that there were very few, if any, cases which came before that court during the period to which I refer, in which my learned friend was not counsel on one side or the other. [Applause.] After the year 1855, when the state was divided, and when the courts for the southern district were established in Cincinnati, a very changed state of things existed. That city being the great commercial center for the state, business came like an avalanche into both the circuit and the district courts, and from that period I have been actively and laboriously employed in

the duties of my station. [Applause.] The district court of the United States, as you are aware, has exclusive and original jurisdiction in all cases of admiralty, and it has also the same jurisdiction in all seizures upon land, and all proceedings in rem against property for forfeiture for violations of law. It has the exclusive jurisdiction of all suits against public defaulters, and for the recovery of debts due the government. It has concurrent jurisdiction with the circuit court of the United States in all crimes. In addition to the matters of jurisdiction to which I have referred, there were occasional cases arising under the fugitive slave law—the act of 1793 at first, and then the act of 1850. In fact, there were oases of this description, more of them in my court, to be tried by me, than I was anxious to have; but it has been very well remarked that judges can not choose the cases which they will pass upon or try. During nearly all the terms of the circuit court the labor and responsibility of presiding devolved upon me, as the duties of the judge of the circuit did not often permit him to attend the terms of that court. Without dwelling upon this subject, so far as my learned friend has given me any credit for long and laborious service, I accept the compliment, for I think I have, perhaps, had a longer judicial term of life, with one or two exceptions, than any federal judge under the government of the United States. I know of few, indeed, that have exceeded me in length of term. [Applause.] One remark further, gentlemen, and I shall take my seat In regard to my motives, in judicial action, allow me to say for the benefit of the fraternity, that in early life I was forcibly impressed with the utterance of Lord Mansfield in the Case of John Wilkes, when, in deciding the points of error that were made, he said: ‘I love popularity, but it is the popularity that follows, not that which

is run after; it is not the popularity that is gained without merit, and lost without crime.' [Applause.] From the bottom of my heart, I now express my thankful acknowledgments for the compliment which it has pleased the gentlemen of the bar of the southern district of Ohio to pay me upon this occasion. [Loud and prolonged applause.] ”

Mr. Murat Halstead, editor of the Cincinnati Commercial, an invited guest, appropriately responded to the toast, “The Press;” in conclusion, stating “that he had joined with very great sincerity in this testimonial toward a gentleman whose name was a synonym for all that was honorable and upright in the judiciary.”

The following letter, from a distinguished member of the bar, since “freed from the toils which so long pressed upon him,” was read, and elicited great applause:

Letter from Hocking H. Hunter:

“Lancaster, O., March 27, 1871.

“My Dear Sir: I truly regret that business engagements place it out of my power to participate in the entertainment on Thursday, to be given as a testimonial of esteem and regard to our venerable friend, Judge Leavitt, on the occasion of his retirement from the bench. I acknowledge myself, within the terms of your letter, to be one of those who have been ‘ longest associated,’ professionally, in the exercise of his judicial functions, with the judge, extending, in fact, throughout the whole period of his service. And I assure you it would be very gratifying to me to be with the brethren in the expression of their approbation of his official life, now about to be brought to a close. It has been pure and faultless in purpose, just, upright, impartial, diligent; and now, at the advanced period of life which he has attained, it is my wish to assure him that I hope he may enjoy many happy days and years of life, freed from the toils which have so long pressed upon him, and when the end cometh that it may be to enter upon a new life of endless felicity. Hoping the occasion may be one to be followed by grateful recollections, I am, very respectfully, your obedient servant, H. H. Hunter.

“To W. M. Bateman, Esq.”

McLEAN, JOHN.

[For brief “biographical notice, see 30 Fed. Cas. 1385.]

The following proceedings are reprinted from 1 Biss. 9:

Hon. John McLean, associate justice of the supreme court of the United States, whose opinions form a large part of this volume [1 Biss.] and of whose reports this series is a continuation, died at Cincinnati on the 4th day of April, 1861, at the age of seventy-six years, being at that time the senior associate justice of that court. Judge McLean commenced the practice of the law in 1807, at Lebanon, in Warren county, Ohio, and five years afterwards was elected to congress in his district, which, at that time, included the city of Cincinnati. In 1814, he was, by the unanimous vote of his district, re-elected to congress, which position he resigned to accept a place in the supreme court of Ohio, to

which he had been elected by the legislature of that state. He remained on the supreme bench of Ohio till 1822, when he was appointed commissioner of the general land office by President Monroe, and in the succeeding year, he became postmaster general. On the 7th of March, 1829, he was appointed by President Jackson one of the justices of the supreme court of the United States, and at the January term, 1830, entered upon the duties of that office, which he continued to discharge for more than thirty years, and until the time of his death. The decisions of Judge McLean in the supreme court are reported in Peters' Reports, commencing with the third volume, and in the twenty-four volumes of Howard. His opinions on the circuit are found in the six volumes of Reports which bear his name, and are concluded in the present volume.

At a meeting of the members of the bar and officers of the supreme court of the United States, held in the supreme court room, December 2d, 1861, Richard S. Coxe Esq., on behalf of the committee appointed for that purpose, submitted the following resolutions:

"1. That the members of this bar and the officers of the court entertain a profound sense of the loss which, in common with the entire nation, they have sustained in the death of the late Mr. Justice McLean, so long known to the community, and in an especial manner to the profession, for his exalted legal accomplishments, the purity of his private character, and the eminent ability with which he discharged the duties of the high offices, judicial, administrative, and legislative, with which his name has been so long and honorably associated.

"2. That we will wear the accustomed badge of mourning during the present term of the court.

"3. That the chairman and secretary of this meeting transmit a copy of these proceedings to the family of the deceased, communicating, at the same time, the deep and sincere sympathy felt by its members in the affliction with which they have been visited by a wise and merciful Providence.

"4. That the honorable the attorney general be respectfully solicited to present these proceedings to the supreme court, now in session, and to ask that they may be entered on the minutes of the court."

At the opening of the supreme court on the following day, Mr. Bates, the attorney general, presented to the court the proceedings and resolutions of the meeting, and moved that they be entered on the minutes of the court, addressing the court, as follows:

"May it please your honors: I appear before you now not on my own motion, but at the request and by the authority of my brethren of this bar, who have desired me to say to you, in their behalf, a few words expressive of their feelings, And it is with an emotion of sadness, bordering upon melancholy, that I find myself constrained by circumstances to



mark my first official appearance in this high court with the repulsive prestige of a bearer of bad news.

“For the heart of man will sympathize with surrounding facts, and will, often unconsciously, associate ugliness and vice with the messengers of evil, and will on the contrary, impute beauty and goodness to the agents and instruments of its pleasure. This is a sentiment known of old as a truth rooted in the human heart. ‘How beautiful,’ exclaims the holy prophet, ‘how beautiful, upon the mountains, are the feet of Him that bringeth good tidings, that publisheth peace !’ Oh! that to-day it were my delightful office to bring you good tidings, and to publish to you peace. But, unhappily, it is not so. Since the first organization of this court, no term has yet been held under circumstances so gloomy and sorrowful. I look up to that honored bench and behold vacant seats. Even this august tribunal, the co-equal partner in the government of a great nation, the revered dispenser of our country’s justice, shares with us in feeling the common sorrow, and suffers in the common calamity. It is shorn of its fair proportions, and weakened and diminished in its strength and beauty, by the present loss of one entire third of its component members. And where are the wise, learned, and just men who used to fill those seats? Gone from this theater of their fame and usefulness, while all of us remember them with respect and gratitude, and mourn the loss of their valuable services. Two of them have been peacefully gathered to their fathers, and have left their fame safe and unchangeable, beyond the reach of malice, and secure against accident, embalmed in history, and hallowed by the grave. And one of them in the ripe vigor of his manhood, and in the pride of a noble and highly cultivated mind, has been swept away from his high position by the turbulent waves of faction and civil war. And this is not all. Your lawful jurisdiction is practically restrained; your just power is diminished, and into a large portion of our country, your writ does not run; and your beneficent authority to administer justice according to law, is for the present, successfully

denied and resisted. I look abroad over the country and behold a ghastly spectacle; a great nation, lately united, prosperous, and happy, and buoyant with hopes of future glory torn into warring fragments; and a land once beautiful and rich in the flowers and fruits of peaceful culture, stained with blood and blackened with fire. In all that wide space from the Potomac to the Rio Grande, and from the Atlantic to the Missouri, the still small voice of legal justice is drowned by the incessant roll of the drum, and the deafening thunder of artillery. To that extent your just and lawful power is practically annulled, for the laws are silent amidst arms. But let us rejoice in the hope that these calamities are only for a season; that the same Almighty hand which sustained our fathers in their arduous struggle to establish the glorious constitution which this court has so long and so wisely administered, will not be withdrawn from their children in a struggle no less arduous to maintain it. Now, indeed, we are overshadowed with a dark cloud, broad and gloomy as a nation's pall; but, thanks be to God, the eye of faith and patriotism can discern the bow of promise set in that cloud, spanning the gloom with its bright arch, to foreshadow the coming of a day of sunshine and calm, and to justify our hope of a speedy restoration of peace, and order, and law.

"This much, may it please the court, I have ventured to say as what seemed to me a fitting preliminary to the discharge of the duty, imposed upon me by my brethren of the bar. Of course all the members of the court know the fact that since the close of the last term, their old and honored associate, Mr. Justice McLean, has departed this life, for all men take sorrowful notice when 'a prince and a great man has fallen in Israel.' But the members of the bar, in pursuance of a worthy custom, long established, and stimulated, no doubt, by their personal reverence for the virtues and the learning of the departed judge, have held a meeting and passed a series of resolutions, which they have done me the honor to confide to me, with the request that I would present them here and ask that they may be entered upon the minutes of the court as a memorial of their profound veneration for the dead, and for the high tribunal of which he was so long a worthy member. I shall not take the risk of marring the strength or beauty of the resolutions by attempting to recite them, or to comment upon them. Let them speak for themselves, for they speak well. But I believe it is the custom here and I hope it will not be unseemly in me to say a few words of my own about that virtuous man, who, though he is dead, still lives in his good works and teaches by his bright example. I had not the honor of his intimacy, but I have known him personally for more than thirty years, and under circumstances which attracted and enforced my observation. I did not consider him a man of brilliant genius, but a man of great talents, with a mind able to comprehend the greatest subject, and not afraid to encounter the minutest analysis. He was eminently practical, always in pursuit of truth, and always able to control and utilize any idea that he had once fully conceived. In short, he was a sincere, earnest, diligent man. And this, I suppose, is the secret of his

success, the reason why his course through life was always onward and upward. I am informed by those who have had good opportunity to know him in all the relations of life—as a lawyer, a judge, an executive officer, a neighbor, a friend, a professing Christian—that, in their belief, all his duties, in every relation, were fully performed. As a man, he lived a blameless life, and not blameless only, but sweet and attractive, by the habitual exercise of all those benevolent virtues which characterized and adorned his mild and gentle nature. And while he pursued with diligence every line of study which might serve to make him at once a blessing and an ornament to society, he looked steadily beyond this transient scene, knowing that this world is but a school of preparation for that eternity upon which his soul rested with undoubting faith. I think the outlines of his character may be sketched in a very few words. He was a ripe scholar; an able lawyer, as you, his brethren must know; a bland and amiable gentleman; a strict moralist; a virtuous man; and, above all, a modest and unobtrusive Christian philosopher. It is not for us to judge of his final condition; but, as feeling and thinking men, when we view the spotless morality of his life, and the quiet meekness of his piety, we have good reason to hope that even now he is enjoying the rich reward of a well-spent life, in blissful communion with the spirits of the just made perfect. This much, at least, we do know, that his life has been a blessing to many individuals and a great benefit to his country, and that, dying in honored old age, he has left behind him the sweet savor of a good name.”

Mr. Chief Justice Taney replied: “The members of the court unite with the bar in sincere sorrow for the death of the late Mr. Justice McLean. He held a seat on this bench for more than thirty years, and until the last two years of his life, when his health began to fail, was never absent from his duties here for a single day. His best eulogy will be found in the reports of the decisions of this court during that long period of judicial life, and these reports will show the prominent part he took in the many great and important questions which from time to time have come before the court, and the earnestness and ability with which he investigated and discussed them. They are the recorded evidence of a mind, firm, frank and vigorous, and full of the subject before him at the time. Before he occupied a seat on this bench, he filled the office of postmaster general of the United States, and in that post displayed an administrative talent hardly ever surpassed, with a firmness of character, and uprightness of purpose never questioned. “Words of eulogy are hardly needed in memory of one so widely known and respected, eminent in political as well as judicial life. “We deplore his loss, and join the members of the bar in paying due honor to his memory, and direct the motion of the attorney general, and the resolutions of the bar in relation to our deceased brother, to be placed on record, with this response from the court; and, as a mark of respect, we will adjourn today without transacting any of the ordinary business of the court.”

The following is reprinted from 1 Bond, 607:

Proceedings of the United States circuit court, within the southern district of Ohio, and of the bar of Hamilton county, Ohio, on the announcement of the death of Hon. John McLean, associate justice of the supreme court of the United States:

“Thursday, April 4, 1861. It having been announced, that Mr. Justice McLean, the presiding judge of this court, departed this life, this morning, at his residence near Cincinnati, it is therefore ordered that business be suspended, and the court do stand adjourned until 9 ½ o'clock tomorrow morning.

“Thursday, April 11, 1861. Stanley Matthews, Esquire, presented the following proceedings, and moved the court that they be entered on its journal:

“ At a meeting of the members of the Hamilton, county bar, held in the United States circuit and district court room in Cincinnati, on Friday, April 5, 1861, on the occasion of the death of Judge McLean, Judge H. H. Leavitt was called to the chair, and William M. Dickson chosen secretary. Whereupon, on motion, Messrs. J. L. Minor, Judge Bellamy Storer, M. H. Tilden, Henry Stanberry, William Johnson, D. K. Este, C. D. Coffin, and George E. Pugh were appointed a committee on resolutions, who, after retiring, came in and reported the following, which were unanimously adopted:

“It has pleased God to terminate the mortal life of our friend and neighbor, John McLean, late an associate justice of the supreme court of the United States. He died at his late residence in Clifton, near this city, yesterday morning, full of years and of honors—a man without reproach — a distinguished statesman — a patriot, untouched by degeneracy—a learned,

laborious, patient, and upright judge—a benevolent and public spirited citizen—in all the relations of husband, father, friend, and neighbor, affectionate and faithful, a model Christian gentleman. We sincerely mourn his loss, and deeply sympathize with the family and relatives in this affliction, and as a mark of respect for his virtues, his talents, his attainments, his exemplary life and character, we will attend his funeral in a body.

”—Resolved, that a copy of these proceedings be presented by the district attorney of the United States for this district to the circuit and district courts for entry on their minutes. That copies be presented by the chairman of this committee to the several courts of this county and city for entry on their minutes. That the chairman of this meeting communicate a copy to the family of the deceased. That the secretary furnish copies to the several newspapers of the city for publication.”

“Thereupon Judge Leavitt made the following remarks: ”I have great pleasure in making known my cordial concurrence with the bar of this city in the well-deserved tribute of respect to the memory of Judge McLean embodied in the proceedings now presented. The terms of eulogy in which they have expressed their estimate of his high moral qualities and distinguished public services as a statesman and a judge are not exaggerated; and it is fitting that his ‘great example and his name’ should be honored by those who survive him. His life is deplored as a national loss; all feel that a great and good man is dead. To the members of the bar of this court, in which for more than thirty years he has presided with so much ability, and so greatly to the acceptance of the public, his loss must be felt with peculiar sensibility. It has made a breach which cannot easily be repaired. I sympathize deeply in the feelings of the bar, on the occasion of this afflictive dispensation of Providence. It is now nearly twenty-seven years since I became associated with Judge McLean on the bench of this court. His death has sundered a relation not only long continued, but which was throughout of the most friendly character. As his friend and surviving member of this court, it is not strange that my heart should be sorely pressed with a sense of bereavement and desolateness; and I am glad of the opportunity of placing upon the records of this court a testimonial of my exalted estimate of his vigorous intellect, his well-balanced judgment, his great judicial learning and acquirements, and the uniform courtesy and integrity which marked his long career as a judge.’

“The court orders the proceedings to be entered on its journal.”

McNAIRY, JOHN.

{For brief biographical notice, see 30 Fed. Cas. 1385.}

The following note is reprinted from 1 McLean, 560:

At the time of his resignation, Judge McNairy had been longer on the bench than any other judge in this country, or in England. By General Washington he was appointed a territorial judge, of the south-western territory; and on the organization of the state of Tennessee, he received the appointment of district judge of the United States, for that

state. Increasing infirmities induced him to resign a short time before his decease. He was a man of sound understanding, and of sterling honesty. In the full vigor of his intellect, he was a good lawyer, and a safe judge. In all his views, and especially on legal subjects, there was a strong vein of common sense, which preserved him from error and led him to a correct conclusion. At no time of his life was he ambitious to be considered a technical lawyer; his aim was to understand and administer the spirit of the law, rather than its letter. Judge McNairy lived universally respected, and died universally regretted. He was an elevated and just magistrate, and a good citizen. He lived long, but as it regards his friends and his country, he did not live in vain.

#### MARSHALL, JOHN.

[For brief biographical notice, see 30 Fed. Cas. 1385.]

The following proceedings of the bench and bar are reprinted from 1 McLean, 555:

At July Term, 1835, the following proceedings took place in relation to the decease of Chief Justice Marshall: The United States circuit court, for the seventh circuit and district of Ohio opened, Monday, July 13th—present, Judges McLean and Leavitt. Immediately upon the opening of the court, Mr. Hammond, the eldest member of the bar present, rose and announced the death of Chief Justice Marshall, in the following terms: “It has pleased Divine Providence to terminate the earthly career of John Marshall, late chief justice of the United States—a citizen without reproach—a patriot soldier of the Revolution—the friend, the companion, the biographer of Washington—the jurist, who, of all his compeers, has effected most to explain, to establish, and to vindicate a just interpretation of the constitution, its remedial bearings upon, and applications to the individual rights and wrongs of the citizen. He departed this life at Philadelphia, on Monday afternoon, July 6th, in the 80th year of his age, surrounded by weeping relatives and mourning friends. He departed, as he had lived, an illustration to all around him of the Christian’s hope and the good man’s resignation. We must all feel the space made void by his departure. We must all deplore it—not for the departed, but for the country—for ourselves. Our consolation is, that he has left to us—to posterity—

“His great example and his name.”

Whereupon the court immediately adjourned.

Tuesday Morning, July 14. So soon as the court was opened, Mr. Scott rose and addressed it thus: “A tribute of respect is due to departed excellence, whether, whilst living, the excellent qualities of character were displayed in the unobtrusive exercise of those private virtues, which rendered him useful as a citizen and endeared him to his family and to his friends, or in the discharge of those high official responsibilities, which the constitution and laws of his country may have devolved upon him. The private and public virtues of the late Chief Justice Marshall, to whose memory we pay this last tribute of respect, cannot be too highly appreciated by us who survive him. As a jurist he has

never been surpassed, and but seldom, if ever, equalled. The labor, the care, the anxieties of a long life almost exclusively devoted to the service of his country, are ended. A great man has fallen: but he has left an imperishable monument of his fame. His decisions as a jurist belong to posterity, who will not fail to do him justice. The ultimate effects of these decisions, which evince such grasp of thought, on many of the great constitutional questions on which the politicians of his day were so much divided in opinion, remain to be tested. And although some may have entertained doubts whether their ultimate tendency might not be injurious, yet none, I presume, ever entertained doubts as to the purity of his intentions. He now rests from his labors, let us revere his memory, and imitate his virtues. The last tribute of respect must soon be paid to each of us; our life is as a vapour, which remaineth but a time, and then passeth away. I am constituted the organ of a bar meeting held yesterday, to present their proceedings to the court. I now present them, and move that they be entered on the journals. ”

The proceedings of the bar meeting having been read by Mr.Scott, Judge McLean responded to the motion in the following terms: “The court feel great satisfaction in directing that the proceedings of the members of the bar, on this melancholy occasion, shall be placed upon their record. It is the highest respect which we can show, officially, to the memory of that exalted citizen, whose loss we all deplore. For more than six years, I have had the honor to be intimately associated with the deceased, in the discharge of public duties; and this has been more than sufficient, to

give me the highest admiration and respect for his eminent qualities, professional, intellectual, and moral. This is not the place nor the occasion, to speak at large of those great talents, and of that elevation of character, which, in the station he occupied, secured to him, beyond that of any other individual, the public confidence. His monument is seen in the judicial history of his country; and it is as imperishable as are those great principles, which, in so distinguished a manner, he contributed to establish. He has fallen, and though he has fallen ripe in years and full of honors, yet his whole country will lament the loss—the profession will lament it—and most of all will the loss be felt and deplored by those who were associated with him on that bench, of which he was the distinguished ornament.”

The following is reprinted from 1 Brock. 9:

Memoir of John Marshall, by Joseph Hopkinson, read on the third day of March, 1837, to the “American Philosophical Society.”

[Mr. John W. Brockenbrough, the reporter, appended the following foot-note to this memoir in the first volume of his reports: “The following brief sketch of the life, character, and services of the late Chief Justice Marshall, from the pen of a ripe and accomplished scholar, is now offered as an appropriate introduction to these volumes. It was, perhaps, inseparable from the preparation of such a memoir, that it should be tinged, in some degree, with the political opinions of the author, and it was also fit that the task of executing it should have devolved on one, who was not only eminently qualified for it in other respects, but whose political opinions fully accorded with those entertained, with remarkable consistency, and enforced with singular power, by the late chief justice of the United States. To that portion of the following paper which discusses the grave and, as some suppose, the very debatable question of the nature and scope of the powers conferred on the supreme court by the constitution of the United States, the editor does not deem it proper, in this place, to express either approbation or dissent; but has chosen to present it, unmutated and unaltered, as it came from the hands of Judge Hopkinson.”]

“The delay which has taken place in the performance of the duty, with which the society has honoured me, has been occasioned by various considerations which it is unnecessary now to explain. I need not assure you, that none of them will be found in an indifference to the appointment, and much less to the illustrious subject of it. The interest, the attention, which that commands, will not be impaired by the delay. There is nothing transient in the character and services of Chief Justice Marshall; nothing to be lost or forgotten in the lapse of months or years: nothing that time and reflection will not confirm and consecrate. They are inseparably connected with the institutions of our country; with its character and destinies. You will recognize and feel them now, as fully and freshly as on the day of his death. While it is the pride of our society to enrol on its list of members,



the most distinguished and honoured citizens of our great republic, it is a consequence of this gratification that we are called upon, from time to time, to record also their death, and to lament the loss of their labours and virtues, of their lessons and example. Illustrated as our roll is with the names of the great and good, of the learned and wise, there is none that can claim preeminence over John Marshall. This great man, truly and emphatically so, was born in Virginia, in the county of Fauquier, in the month of September, 1755. During his boyhood and youth, this county was frontier territory, with a scattered and rude population, and the means of obtaining even an ordinary education, exceedingly imperfect and uncertain. Not with standing this disadvantage, the talents of young Marshall developed themselves at a very early age. He exhibited, as we are informed by one of his dearest friends and most eloquent eulogists, a decided taste for English literature, and especially poetry and history. It is worthy of observation that a mind of such solid structure, of such capacities for profound and abstruse researches, of such gigantic powers, should first have attached itself to poetry. 'He was enamoured,' says the friend alluded to, 'of the classical writers of the old English school of Milton and Shakespeare, Dryden and Pope.' Even here his superiority appears. "What a noble selection of masters? Here we had some assurance of the future man. He took his lessons of literature from deep and pure sources; his teachers were the princes and nobles of the art, who stand on pedestals of adamant with admiring ages rolling at their feet. How unlike the sickly, ephemeral, false, and impure models to which the young readers, (and some old ones,) of the present day devote themselves, corrupting their taste, debilitating their judgment, and touching their morals with dangerous principles and irregular passions! Some of these literati, know little more than the names of Milton and Shakspeare, Dryden and Pope, and are ignorant even of the names of some of the most illustrious poets of our language. This occasion will not suffice for tracing the progress of John Marshall from infancy to manhood. When he reached the age of twenty years, the struggle of his country against foreign oppression had assumed a serious and decided shape. We must fight—said an intrepid patriot of the east. 'We must fight,' was the response of the brave and true spirits of the south. The animating call struck on the heart of Marshall, and electrified the whole man. The course of his education, the charms of literature, retirement, and study, were abandoned; and he betook himself to the field of mortal strife, where the victory was to be won, and his country saved, by strong arms and stout hearts. In the summer of 1775, he received a commission of lieutenant of a company of minute men, and was shortly after engaged in battle. He was in the severe and sanguinary conflicts of Brandywine, Germantown, and Monmouth. Does not this remind us of the best days of Greece and Rome, when their statesmen, their orators, poets and historians, however eminent, encountered the dangers and sufferings of the battle field on the call of their country? Yet we cannot but shrink and shudder to see such a life as that of John Marshall, placed in the balance against

some hireling soldier, whose existence is of no value, and who is probably well paid for all the hazard to which he exposes it, by his shilling or six pence a day. But it was the cause, it was his country that demanded the sacrifice, by whatever hand he might fall. Thank heaven, he was reserved for higher and more essential services to that country. In the midst however of the stirring scenes of war, Mr. Marshall must have found some means and opportunities for study, for in 1780, he obtained his license to practice law. He then returned to the army, and continued in it to the termination of the contest. After this period his fellow-citizens seem to have understood the value of his character and talents, and to have taken possession of them. The people, until they become bewildered and maddened by the delusions and passions of party, are not blind to such gifts, nor to the worth of such men. Mr. Marshall, soon after the peace, was a member of the legislature of Virginia, and of the executive council of the state. In 1788, he was elected a representative of the city of Richmond, in the state legislature, and so continued until 1791. At this time he returned to his professional labours; but in 1795, he was again induced to take a seat in the legislative hall. He was offered by President Washington, the office of attorney general of the United States, which he declined; he withstood the solicitation of the same president to accept the appointment of minister to France, upon the recall of Mr. Monroe. In 1797, Mr. Marshall, yielding his private interests and decided inclination to the public service, accepted from President Adams, the place of one of the envoys to the court of France. The papers written on our behalf, and addressed to the French ministers, in the discussions of the grave and important subjects of the controversy between the two countries, have not been overlooked or forgotten by those who have taken an interest in the

history of the United States, at that embarrassing and perilous period. These documents are enduring monuments of the talents, knowledge, patriotism, and prudence, of Mr. Marshall, to whom the preparation of them was confided. Clear and impregnable in his principles of national law, faithful and firm to the rights of his country, he vindicated her claims with a sagacity and discretion, which gave no advantage to the adversary in the manner more than in the matter, of the dispute. On his return from this mission, he resumed his professional duties. In 1799, he was elected to congress. At this moment, he was offered a seat on the bench of the Supreme Court of the United States, but did not accept it. The time which the society may allot to me on this occasion, and which I fear I shall extend beyond my right, will not admit even of a cursory, exhibition of the independent and brilliant career of Mr. Marshall in the legislature of the Union. His speech on the case of Jonathan Robbins, will never be forgotten or surpassed. It is a perfect model of argumentative eloquence. No attempt was made to reply to it. It could be assailed at no point. It was not possible to bring contradiction or doubt upon it; there was an end of the question. In 1800, Mr. Marshall was appointed secretary of war, and very soon afterwards secretary of state, which place he held but for a short time.

“We have now arrived at the period of Mr. Marshall’s life which was to enlarge the foundations of his reputation, and give it an imperishable solidity. On the 31st day of January, 1801, an auspicious day for our country, John Marshall was appointed, by President Adams, chief justice of the United States. If our constitution is dear to us, if we should cherish the form and principles of a government suitable for a free and intelligent people, we should bless the day when it became the right and duty of this great and pure man to develop, define, and establish, the true and fundamental powers and character of our incomparable government, incomparable only when understood and administered by the principles which, from time to time, as occasions required, the chief justice, aided and sustained by his learned associates, has applied to its provisions; thus becoming part of itself, and necessary to its healthful, durable, and consistent action. Of the value of his clear, discriminating, and vigorous intellect; of his immaculate and independent integrity; of his comprehensive, but regulated views; of his cool and firm judgment in the exercise of his high powers, as the interpreter of the constitution and the law, and the administrator of justice, by and according to them, and them only, every one will truly judge, who can justly estimate the importance of the department of the government of which he was the head. The judiciary is the protecting, conservative power, not only of the rights of every citizen, but of the Union. It keeps every member of it in its right place, to the use of its proper functions, and no more. It compels each orb, the great as well as the small, to move in its prescribed sphere, and brings the wanderer back. It restrains the ambition and power of the strong, and defends and secures the rights of the weak. Should New York, with her two or three millions of citizens, and Rhode Island, with her few thou-

sands, appear as adversary suitors, before this august tribunal, the one is no longer great and strong, her power is not seen or felt, nor the other feeble and small. Their territory is not measured, their numbers are not counted; their rights only are known and considered. The constitution and the law decide the question between them; and both are equally bound to submit to the award. To this court, then, is committed the harmony of the Union; the rights of states and citizens; the perpetuity of our government. The errors of the executive seldom reach beyond some single, immediate object: they are transient, and may be remedied without any ruinous shock to the great interests of the community. The legislature may promptly recall an inadvertent or impolitic act; but the decrees of the judiciary are written on brass; they are the enduring laws of the land, as binding as the constitution itself. Rights become incorporated with, and founded on, them, which may not be shaken without disturbing and weakening every right. For this high trust, John Marshall, above all men, was constituted by every quality and acquirement necessary for its pure and perfect administration. Pardon me if, on this theme, I have enlarged too much. It is my solemn conviction, that it is a theme which should engage the deep and constant attention of every American. There is no safety for any right you enjoy, without an upright, learned, and independent judiciary; there is safety for every thing, and under all circumstances, while the judiciary is preserved, competent in knowledge, fearless in integrity, faithful to the constitution, steadfast in principles, and firm in public confidence. Having no connection with, or dependence on, the changes of parties and men, it is raised above the rough storms and fitful currents which agitate and befoul the lower atmosphere of politics and politicians. If it shall ever happen that changes on the bench are to change and unsettle fundamental principles of constitutional law; if new judges are to bring with them new doctrines, then the decrees of the court will be as vacillating as the votes of a popular assembly, and confidence and security will attend them no longer. The constitution will become a moving body of sand—a quicksand where no firm footing can be found—instead of a rock on which we may build and rest, without fear, for ages. How transcendent in power and dignity is this tribunal! It is the concentrated force of the whole Republic. There is nothing on earth like it. Its arms embrace the extremities of this vast empire; its voice is heard and obeyed in its remotest parts. Proud, powerful, and sovereign states submit to its decrees, and the assembled representatives of sixteen millions of freemen may stand rebuked before it. There is truly nothing on earth like it.

“The honoured gods Keep Rome In safety, and the chairs of justice Supply with worthy men.’

“The judicial services of Chief Justice Marshall are recorded where they must remain undefaced, while the government and its institutions, which they have illustrated and invigorated, shall continue to exist. May they be perpetual! The people will be secure and happy under them, if they will learn the difficult and rare lesson, to ‘know their own hap-

piness.' In his political creed, the chief justice was a disciple, or rather an eminent teacher, of the Washington and Hamilton school. In that faith he lived and died, having found, it is presumed, nothing that he thought better. While the lawyer will review the judicial life of John Marshall, with admiration of his learned sagacity and profound judgment; of his wonderful powers of illustration and analysis; and remember with affection his encouraging and amiable deportment to the most humble advocate; while the statesman will reverence his clear and expansive views, and his unerring comprehension of cardinal principles; we must contemplate him, also, as a philosopher, and a man, and look to his more private virtues and accomplishments. He was an illustrious example of the truth, that simplicity is of the essence of greatness. It is so in man, in the arts, in every thing. He showed us, that domestic virtues and habits, in their most simple and amiable forms, may accompany and adorn the most powerful intellects, and exalted genius. Who excelled him as a husband and a father, as a kind, generous, and considerate friend? Whose cheerfulness was more unaffected and exhilarating? For more than twenty years, I enjoyed the personal acquaintance, I may say, the friendly regard of the chief justice. I have seen him in public and in private, on the bench of justice, and in the more endearing courtesies of social intercourse. In such moments, he was as playful as a boy. He was not afraid that his dignity would suffer, by the indulgence of a natural gaiety of temper. He was a hearty laugh, and caught and enjoyed a joke, beyond any other man I have known. It was delightful to see that leviathan intellect, sporting

with the playfulness of a child; indulging in the light and amiable charities of life; enjoying to his heart's core, its innocent amusements; taking an interest in its ordinary concerns, and mixing, without reserve, in the humours of the company, and the hour. This was a spectacle more rare, than the display of superior talents, and extraordinary attainments. This is to be truly a great man. I have seen him, listening eagerly to a pleasant story; catching with intense attention, every point and turn, and giving, from time to time, note of enjoyment in unrestrained bursts of hilarity. He made it no part of his dignity and self respect, to wrap himself in a solemn reserve; to play the 'Sir Oracle;' to affect to be above the common feelings and excitements of his fellow-beings ; to look with a cold and supercilious brow upon the occupations, interests, and pleasures of inferior men. I have seen his dark and penetrating eye, sparkle and flash with delight, at the recital of some anecdote of poignant and exciting humour. Lord Wellesley, in his account of the character and habits of William Pitt, says, that 'he seemed unconscious of his superiority;' that he 'plunged heedlessly into the mirth of the hour,' and was endowed with ' a gay heart and social spirit, beyond any man of his time.' But was not Chief Justice Marshall, a philosopher in the highest and best sense of the term? The character of his mind, was that of deep reflection, and close reasoning. He sought truth in great principles, and not in accidental circumstances, or the authority of names. Having found the principle, he brought it to the case before him, by a train of deductions, which it was impossible, to separate, terminating in the conclusion, with the most perfect conviction of its truth. He was, in jurisprudence, such a philosopher, as Sir Humphrey Davy was in chemistry. He never experimented at random, trusting to chance for a discovery. His object, and the means by which he sought, and expected to attain it, were philosophical, precise, and consecutive. He settled his principles, as the platform of his operations, and worked on them, step by step, until by, and through them, he reached the desired end. It was well observed to me, that there is philosophy in the judicial opinions of the chief justice, the philosophy of reasoning, of making clear and accurate deductions, from solid and established premises. This is, assuredly, a philosophy more useful and rare, than the impracticable theories, and wild visions, which are often called so.

"On the 6th day of July, 1835, in this city of Philadelphia, John Marshall died—with the same serenity in which he lived—

"Like one who wraps the drapery of his couch  
About him; and lies down to pleasant  
dreams.

At a meeting of the judge, the members of the bar, and the officers of the circuit court of the United States, for the eastern district of Virginia, held in the court room, in the city of Richmond, on the 23d November, 1835, the Honourable Philip Pendleton Barbour, was called to the chair, and Mr. Henry Gibson, clerk of the circuit court, was appointed secretary to the meeting.

## YesWeScan: The FEDERAL CASES

The following preamble and resolutions were proposed by B. F. Leigh, Esq., and were unanimously adopted:

“John Marshall, late chief justice of the United States, having departed this life since the last term of the federal circuit court for this district, the bench, bar, and officers of the court, assembled at the present term, embrace the first opportunity to express their profound and heartfelt respect for the memory of the venerable judge, who presided in this court for thirty-five years,—with such remarkable diligence in office, that, until he was disabled by the disease which removed him from life, he was never known to be absent from the bench, during term time, even for a day,—with such indulgence to counsel and suitors, that every body’s convenience was consulted, but his own,—with a dignity, sustained without effort, and, apparently, without care to sustain it, to which all men were solicitous to pay due respect,—with such profound sagacity, such quick penetration, such acuteness, clearness, strength and comprehension of mind, that in his hands, the most complicated causes were plain, the weightiest and most difficult, easy and light,— with such striking impartiality and justice, and a judgment so sure, as to inspire universal confidence, so that few appeals were ever taken from his decisions, during his long administration of justice in this court, and those only in cases where he himself expressed doubt, —with such modesty, that he seemed wholly unconscious of his own gigantic powers,—with such equanimity, such benignity of temper, such amenity of manners, that not only none of the judges, who sat with him on the bench, but no member of the bar, no officer of the court, no juror, no witness, no suitor, in a single instance, ever found or imagined, in any thing said or done, or omitted by him, the slightest cause of offence. His private life was worthy of the exalted character he sustained in public station. The unaffected simplicity of his manners; the spotless purity of his morals; his social, gentle, cheerful disposition; his habitual self-denial, and boundless generosity towards others; the strength and constancy of his attachments; his kindness to his friends and neighbors; his exemplary conduct in the relations of son, brother, husband, father; his numerous charities; his benevolence towards all men, and his ever active beneficence; these amiable qualities shone so conspicuously in him, throughout his life, that highly as he was respected, he had the rare happiness to be yet more beloved. He was, indeed, a bright example of that true wisdom, which consists in the union of the greatest ability, and the greatest virtue.

“Resolved, that in addition to the reasons common to us, with the whole people of the United States, we have peculiar cause to regret the loss of this wise and just magistrate, and great and good man.

“Resolved, that for the purpose of rendering merited honour to his memory, and of perpetuating, as far as it is possible to perpetuate, this expression of our sentiments of love and veneration for the judge, and the man, the circuit court be requested to enter

these proceedings on its records. And that the chairman and secretary of this meeting, be requested to communicate the same to his family.”

NELSON, SAMUEL.

[For brief biographical notice, see 30 Fed. Cas. 1387.]

The following proceedings upon his retirement are reprinted from 10 Blatchf.:

The bar of the United States courts for the second circuit will meet in the United States circuit court room, on Friday, January 17th, 1873, at 2 O'clock, p. m., to take action upon the retirement of Mr. Justice Nelson from the supreme court of the United States. Edwards Pierrepont, Geo. Ticknor Curtis, George Gifford, Murray Hoffman, Erastus C. Benedict, William M. Evarts, James W. Gerard, Theo. W. Dwight, Charles O'Conor, Edwin W. Stoughton, Joshua M. Van Cott.

At a meeting held in pursuance of the foregoing notice, and on motion of Joseph S. Bosworth, Charles O'Conor was elected president. On motion of Sidney Webster, the following gentlemen were chosen to be vice presidents: James W. Gerard, Murray Hoffman, Edgar S. Van Winkle, Joseph S. Bosworth, Welcome R. Beebe, Henry Nicoll, John McKeon, Erastus C. Benedict, John K. Porter, Henry E. Davies, Edward J. Phelps, John Ganson, George B. Hibbard, Lyman Tremain, Francis Kernan, Henry R. Selden, Samuel Hand, Richard D. Hubbard, Charles R. Ingersoll and Henry E. Stoughton. Clarence A. Seward named as secretary of the meeting, Sidney Webster.

The meeting having been thus organized, the president said:—

“Brethren of the bar: The great lawyer who for half a century has been practically the very life and light of our jurisprudence, has retired from active duty. His illustrations of practical



justice remain for our enlightenment and will descend to posterity. In these—his gifts to man— the present and the future are participants alike; but in some things we are exclusively his beneficiaries. His magnificent demeanor on the bench was a model of all the judicial graces. In that high place his princely bearing and lion front inspired every honest suitor with confidence, while it paralyzed the most audacious guilt. These things we have witnessed and will ever remember; but neither tongue nor pen can convey to future times an adequate portraiture of them. These memories and the pleasure of contemplating him in the serenely tranquil retirement which closes his great career are our own. The Augustan age of our jurisprudence, when “Wells and Emmet argued the causes which Kent and Spencer decided, is happily connected in history with all that is now recognized as best and purest by the period which Nelson adorned. Patriotism and professional pride can hope for no more than that the rising lawyers of to-day may sustain and transmit to worthy successors the great fame derived by their class from such high sources and through such a noble channel.”

Edwin “W. Stoughton then moved that a committee of five be appointed by the chair to prepare an address to be presented to Mr. Justice Nelson, which motion having been adopted, the following gentlemen were named by the president as such committee: Edwin W. Stoughton, Benjamin D. Silliman, Theodore W. Dwight, George Gifford, Cornelius Van Santvoord.

The committee, after consultation, presented the following address:

“To the Honorable Samuel Nelson: Sir:—Tour retirement from the bench of the Supreme Court of the United States, after a judicial service of more than forty-nine years, is an event which the members of the bar of the federal courts cannot allow to pass into history without connecting therewith the expression of their profound sense of the solid benefits conferred by your labors and example upon the bar and people of this country. Appointed at an early age to the bench of the circuit court of the state of New York, you commenced your judicial career under a system which pledged to you a long and independent tenure; in return for which, you devoted to the discharge of your responsible duties, faculties and acquirements which singularly fitted you to administer justice among men. You brought to this work great energy, a noble ambition, an earnest love of justice, absolute impartiality, an elevated conception of all the duties of a magistrate, united with a judgment of unsurpassed soundness. Acknowledging responsibility only to your conscience, to the law, and to your God, you early won the confidence of a bar, among whose members were numbered some of the greatest lawyers of the last generation. From the circuit court of the state you were advanced to the supreme court, and there you proved yourself worthy to sit in the-place of the great masters of jurisprudence who had preceded you, and whose reputations will endure forever. Again you were advanced, and the bar, with pride, saw you robed as chief justice of the state. As such you presided for

many years, and had your judicial career terminated with the resignation of that office, the records of jurisprudence would have transmitted your name to posterity as that of a great and just judge. Your labors were not thus to end. You had administered justice for the period of twenty two years. During that time you had mourned the departure of many members of that illustrious bar, which had greeted your entrance into judicial life. Around you had grownup a younger bar, to whom you were an object of admiration and reverence. You had served the state of your nativity well, and well had you maintained the state and even national fame of the court over which you presided. Your opinions there delivered will long stand as examples of the right application of established legal principles, exact learning and sound common sense to the cases presented for judgment. More than twenty-seven years ago, in the full maturity of your powers, you were appointed an associate justice of the supreme court of the United States. There, and at” the circuit, you encountered new and untried questions. The law of nations, of admiralty, of prize, of revenue, and of patents, you mastered, and, as those who now address you can bear testimony, administered with unsurpassed ability. With critical accuracy you studied and applied a vast amount of legislation and a multitude of rules, comprised within the special branches of jurisprudence you were compelled to administer. The benefits you conferred did not consist solely in bringing, as you did, to the investigation and decision of causes, a deep insight—a judgment matured by long and varied experience and solid learning—the fruit of a life of study and reflection. Your kind and generous treatment of young lawyers ever encouraged them to renewed exertion; and, in struggling to deserve your approval, they were inspired by a worthy ambition, for they knew that your standard of professional excellence was high, and that . to win your approval was an earnest of future distinction. Beyond all this, you have afforded to the bench of this country an example by which the wisest and best of its members have profited, and, by your long and spotless life as a magistrate, you have added dignity and lustre to the history of our jurisprudence; for, whilst the degradation and corruption of the judges of a nation inflict upon it an offensive, a revolting blot, their independence, their purity and their learning have ever written the proudest annals of national life.

” There are among those who now address you, many who have so long been accustomed to your presence upon the bench, that they will never be quite reconciled to your absence. They will sometimes earnestly wish that you could have remained to steady them in the performance of their duties, until the close of their professional career. Nevertheless, all who now address you will never cease to be thankful, that upon your retirement to your family and home, it can be said of you as was said of Lord Mansfield: ‘It has pleased God to allow to the evening of an useful and illustrious life, the purest enjoyments which nature has ever allotted to it, the unclouded reflections of a superior and unfading mind over its varied events, and the happy consciousness that it hath been

faithfully and eminently devoted to the highest duties of human society.' Earnestly hoping that these blessings may be enjoyed by you for many years, the members of the bar who unite in this tribute to your worth, remain forever your friends."

Edwards Pierrepont, in moving the acceptance of this report, addressed the chair as follows:

"Mr. Chairman: When eminent men have died, it has been the custom among civilized nations to take some public notice of the event. But the number of those who have voluntarily retired from a great office are so few, that it can hardly be said, that any custom touching such retirement has been established; the rarity of this occasion makes it the more noted, and for every reason it was most fit that you, Mr. Chairman, should have been selected to preside at this unusual meeting of the bar. When a man in his early prime resigns a high office to enter some broader field of ambition, or to seek new gratifications in the pursuit of wealth, he neither deserves nor receives any especial marks of approbation from his fellow-men. But when one has spent a long life in the public service, and has so borne himself in his great office as to command the respect of every honest citizen, and at the call of duty lets go his hold on power, while all his faculties remain, he is a man so rare as to attract more than a passing notice; and we have met to say something of this grand old man who was eighty years old the 8th of November last, and who, by continuing three months longer, would have had an uninterrupted career of judicial life full fifty years. We search in vain for a career like this! How nobler is it, than to have clung feebly to his place until death pulled him reluctant from his seat. How like the man, how in harmony with his high sense of duty, was his retirement from an office in which he, sooner than others, felt that the burden of his years might possibly diminish his usefulness. No pride, no love of power; no vanity stood for a

moment in his way; a lofty sense of duty governed him in the end as at the beginning, and as all through his life. It was well known, if Judge Nelson retained his office until April next, that the half century of his judicial life would then be complete, and many supposed that the natural desire to fill up the fifty years would prolong his stay upon the bench; but those well acquainted with Judge Nelson knew that the high tone of his character would not allow him to retain the office one day after he became satisfied that he could not fully discharge its duties. Lord Mansfield, the chief justice of the king's bench, resigned at the age of eighty-three. He had been upon the bench thirty-two years. Between Judge Nelson and the lord chief justice there were some striking points of resemblance. So noted was Lord Mansfield for preferring substantial justice to musty precedent, and so firmly did he believe in the flexibility of the common law, and that its rigid rules should bend to new exigencies in the advancement of commerce, of science, of civilization and humanity, that it was a common thing for the old lawyers to sneer at what they called 'Lord Mansfield's Equity Judgments;' and Junius, in a letter addressed to the lord chief justice, November 14th, 1770, says: 'Even in matters of private property, we see the same bias and inclination to depart from the decisions of your predecessors, which you certainly ought to receive as evidence of the common law. Instead of those certain positive rules by which the judgment of a court of law should invariably be determined, you have fondly introduced your own unsettled notions of equity and substantial justice. Decisions given upon such principles do not alarm the public as much as they ought.' The public were not alarmed; the public saw that Lord Mansfield was right, and that 'equity and substantial justice' was what good men desired, and not inequity and injustice, in deference to worn-out precedents unsuited to the advancing times. In earlier years we heard the same criticisms from old lawyers about the rulings of Judge Nelson, and almost in the same language; but the names of those who censured Lord Mansfield and Judge Nelson for their adherence to 'equity and substantial justice' are already forgotten, while both of these great jurists will be held in reverence so long as the common law continues to be administered.

"In the construction of statutes of the United States, subtle and unsubstantial technicalities, interposed to defeat justice, had small chance of success where Judge Nelson was presiding. At the trial of the great frauds of Kohnstamm, I was employed by the government to conduct the prosecution; several of the eminent lawyers here present were engaged for the defence, and one, now no more—the lamented and much beloved James T. Brady—whose great legal abilities would have made him distinguished without the aid of his more brilliant and unparalleled rhetorical powers. Mr. Brady, with his usual eloquence and skill, summed up the case for the accused; but the jury found the defendant guilty; and upon remarking to Mr. Brady that the jury were prompt, and that I feared a disagreement, 'I had hoped it,' said Mr. Brady, 'until the charge, but what could I do

against that old lion there?' turning towards the judge, as he sat kingly upon the bench, and looking like a veritable old lion, as he was.

"Nature did much to make Judge Nelson what he has been. Nature gave him a commanding presence, a strong constitution, and even balance of the passions and the intellectual faculties, a genial soul and great vital forces, a natural love of right and substantial justice, a resolute will and an honest heart; a mind, body, and a moral tone, healthy, manly and robust. Culture did greatly aid him; but his natural endowments were vast. He did not deserve much credit for being a great, just man; he could not help it very well. It was natural and easy; and his life flowed on as the strong current of a river. It would be interesting and instructive to have his brother judges of the supreme court give their estimates of Judge Nelson's characteristics and judicial abilities. I have frequently heard several of them speak of their eminent associate, and quite recently the chief justice has expressed unmeasured admiration of the easy facility, wisdom, ability, and remarkable character of him whose retirement from the bench the chief justice considers an irreparable loss to himself personally, and to the public service generally.

"The influence of Judge Nelson upon the New York bar has been very great. The tone and manners of the bar will always depend upon the tone and manners of the bench. Good temper, courteous manners, and dignity of deportment are very important, if not essential, in the administration of justice. The bar and the bench will ever go-hand in hand and quite abreast in every respect, and the community are quick to discover the fact; and great merchants and men of business will not entrust their important interests to a bench and a bar composed of inferior men; and so sure-as you degrade the bench, you degrade the bar; and, with equal certainty, you thus drive the important business from the lawyers and the courts, and other means of adjusting differences of magnitude will be found.

"Judge Nelson took no active part in politics; but no man was a more close or more interested observer of public affairs. In the distracted times of 1860, when the Democratic party looked around for a candidate who could unite the north and south, and command the confidence of the entire country, Judge Nelson seemed to be the only man; the sole difficulty in the way was the fact that he was a member of the supreme court; and the sentiment of the people seemed then, as now, to be, that, when a man enters that temple of justice, and puts on the robes of office, he shall never make the sacred seat a stepping stone from which to ascend to any political place.

"When the governments of Great Britain and of the United States undertook a negotiation which resulted in the treaty of Washington, our sagacious secretary of state, with that good judgment for which he is distinguished, selected (by the approval of the president) Judge Nelson as one of the high commissioners; and the crowning act of a great career in the public service was the prominent part he took in concluding that treaty, by which enduring peace between these two great nations, speaking the same language, gov-

erned by similar laws, and worshipping the same God through the same religious forms, was secured. The Lord Chief Justice Mansfield lived five years after resignation of his office. May our equally great and equally respected Judge live many times those years, if he so wishes, and God wills; 'and when old Time shall lead him to his end. Goodness and he fill up one monument.' "

On the conclusion of the remarks of Mr. Pierrepont, the meeting was addressed by Clarence A. Seward, who said:

"Mr. President: It is with unfeigned satisfaction that I concur in the adoption of the proposed address! It is meet and right that the evening of a well-spent life should be brightened, ere its close, by the commendation, 'Well done, good and faithful servant.' The utterances of approval are more timely now than if postponed until sorrow tempered them. Better is it to say to the living, 'Thou art worthy of honor,' than to reserve the recognition for eulogy and mausoleum.

"For thirty years have respect and friendship, formed in school-boy days at Cooperstown, grown stronger, and with them both is mingled an affection which, to-day, finds cause for regret that professional intercourse must henceforth cease. For many repeated words, kindly suggestive of patience, hope, and promise, I am to-day the debtor of him in whose honor we are gathered here. Therefore it is that I appreciate the privilege of acknowledging my obligations, and of uniting with those who are here assembled to testify to him the high regard in which he has been held by those among whom his lifetime has been spent.

"No one feels more grateful than I do, that we are not assembled here as a brotherhood in mourning, but to testify our affectionate regard for one

who still lives, as is so felicitously “stated in the address, ‘to enjoy the happy consciousness that his life has been faithfully and eminently devoted to the highest duties of human society.’

“It is not necessary that one should have passed away to insure an example worthy of emulation. There are three characteristics of Mr Justice Nelson, which conspicuously marked his judicial career, and which may be mentioned in his lifetime, without trenching upon propriety, as worthy of observance. They are his calmness, courtesy and dignity. His calmness was imperturbable, and never deserted him. Procrastination and ignorance could not disturb it. Ill temper could not ruffle it. It held himself in check, and restrained the ebullitions of others. It permeated the atmosphere of the forum, and insured confidence and decorum. His courtesy was natural, and therefore always manifest. It insured a patient hearing, and its silent influence, teaching by example, secured the courtesy of all. If it failed in so doing, a kindly word from him restored the broken harmony. His dignity was his own, not borrowed. It was nature’s outward clothing of the gentleman within. It repelled familiarity, as it forbade insult, and it imparted itself alike to counsel, witnesses and jurors. It ‘grew with his illustrious reputation, and became a sort of pledge to the public for security.’

“These three qualities are said to have been the attributes of Lord Mansfield, but his biographer assures us, ‘that he had a serious defect, a want of heart.’ No biographer of Samuel Nelson will ever make that charge against him. Contemporaries and tradition will alike refute it. That he has a large heart, filled with human kindness, those who knew him best can best attest. It acted like a magnet in the court room, and drew from every one respect, which, longer continued, ripened into affectionate regard. It insured for the younger members of the bar a manifestation of attention, precisely equal to that which was bestowed upon older and more able advocates. It sympathized with nervous inexperience, and was itself too tender to wound by biting sarcasm or harsher jest. It could be just to one not liked; more than that—it could be just to a friend, and in so doing rise superior to apprehensions of possible hostile comment. Of his logical understanding, quick perception, judicial abilities and juridical knowledge, there is no occasion now to speak. They are evidenced for ourselves and for posterity in the ‘Reports,’ and need no encomium now. I never heard but one criticism upon his conduct as a judge, and that was the old one made of a celebrated English judge, that ‘he did not dispatch matters quick enough.’ ‘This complaint is to he answered now, as it was answered when made two hundred years ago.’ But the great care he used to put suits to a final end, as it made him slower in deciding them, so it had the good effect that causes tried before him were seldom, if ever, tried again. “When they were decided, whether verbally or in writing, the decision was couched in a few apt and expressive words, for he seemed to believe in the maxim of Lord Bacon, that ‘a much-speaking judge is not a well-tuned cymbal.’ Our

regret here to-day is, that he will no longer preside among us; that he has asked for his 'writ of ease,' and to be relieved from the duties of his office, and almost in the language of one of the chief justices of England, addressed to Charles II., because 'he could not, in good conscience, continue in it, since he was no longer able to discharge the duty belonging to it' In his retirement, so honorably sought, he carries with him the respect, the veneration, and the affection of that bar which knew him best.

"Mr. President, when Sir Matthew Hale died, his friend Baxter purchased a Bible, in which he placed a print of the deceased judge, and underneath it he wrote these words: 'Sir Matthew Hale: That pillar and basis of justice, "who would not have done an unjust thing for any worldly prize or motive, entered on, used and voluntarily surrendered his place of judicature with the most universal love, and honor, and praise that ever did English subject in this age, or any that just history does record.' "What was true of England's most venerated chief justice is equally true now of New York's most venerated judge. Professional ties are broken here to-day, never to be reunited. Those of friendship still remain, and across them, as across the cable, we send our New Year's greeting to our retired chief in his country home, with our benedictions for his instruction and example. We can see the frosts of eighty years gathering upon his honored brow. It is our gratification, as it is his, to know that their whiteness and purity are rivalled by his judicial robes, worn for half a century, without spot or blemish."

In seconding the motion for acceptance, William M. Evarts spoke as follows: "It is our expectation, Mr. Chairman, that appropriate committees will be appointed to present this address to Judge Nelson, in the name of his brethren at the bar, to the United States circuit court of this district, and to the supreme court at Washington, and, in connection with the address and with these dispositions of it, appropriate to our feelings and our duty, I may be permitted to say a few words. When you notice that, in the year 1821, Judge Nelson was a member of the constitutional convention of this state, and that in the year 1871 he was a member of the great diplomatic body which disposed of all differences between Great Britain and his own country, you have included, as between the points of the compasses, a great span, I will not say in the life of a man, but in the life of this nation. And, in naming these two great public trusts that he has discharged, you have exhausted the list of all his public duties, all his public services, and all his public honors that do not belong exclusively to the profession of the law and the distinctions of the judiciary. Now, we must consider how large a combination of what constitutes the fame of very many celebrated men is united in the fame and the services of Mr. Justice Nelson. As the address has noticed, while exhausting the honors and filling out the services of the highest judicial stations of the state, he justly earned, by the manner in which he discharged these great duties, a place by the side of the most eminent lawyers and judges whom the state has produced. From the moment that he was transferred to the federal judiciary,



until his retirement, the general judgment, not only of this bar and of this community, but of the bar of the United States, and the sense of the country at large, confirm his position as on a level with that of the most celebrated judges of the nation. Again, if we compare him with those who have gained great fame, among ourselves or in the mother country, in the different departments of the law—as common-law judges, as equity judges, as admiralty judges—who is there but must concede that in the number of his causes, in the magnitude of his judgments, in the wide comprehension of the principles which he applied in each of these different departments of the law, he stands now, in his old age, to be compared with such masters in those separate departments as Sir William Scott, Lord Eldon, Lord Mansfield, Dr. Lushington, Kent, Spencer, Tilghman and Shaw. We find also, in this extraordinary life, no defect apparent, and nothing wanting. We mark a collective force and strength of varied and prolonged service and of sustained credit in his career, which are not to be conceded to any single life of judicial distinction, either in England or with us. He had, by the lofty discharge of the great trusts confided to him, in the language of Lord Bolingbroke, ‘built up about him that opinion of mankind, which, fame after death, is superior strength and power in life.’ Whenever he moves, in whatever attitude he is regarded, these traits of dignity and force of character must always be accorded to him. My own personal observation, Mr. Chairman, covers the whole period of Judge Nelson’s services in the judiciary of the nation, and carries me back through a few years of his latest service as chief justice of this state. He signed the warrant for my practice as an attorney. My first knowledge of him, probably, was at the term of the court at which I received it, and subsequently during the

three or four years while he remained on that bench, I had the good fortune to make his personal acquaintance, and the honor to make arguments before him in several suits. I argued, I think, before him one of the very first causes of much importance after he took his seat here, in the circuit court of the United States, being a re-argument of a cause which I had argued before Judge Thompson, and his death had left undecided. From that time to this, in New York, in Vermont, and at "Washington, socially and professionally, I have enjoyed his kind friendship, and he has ever been present to my personal and professional admiration. Mr. Chairman, Archbishop Whately, in his notes to Lord Bacon's Essays—which, I believe, scholars and moralists regard as a not unworthy commentary on so celebrated a text—has drawn a contrast between the relations to the community of a great lawyer and of a great judge, that is more pointed than it is flattering to those of us who adhere to the bar—more pointed, perhaps, than in just. He says, in substance, for I quote only from distant memory, that when a pre-eminently great advocate dies, or is withdrawn from the service of the law, it by no means follows that the public or the administration of justice thereby suffers a loss. For, as he suggests, the great interests of society, demanding, and the whole judicial establishment existing for, the perfection of the administration of justice among men, where an advocate has so far outgrown his fellows as greatly to overmaster them by his eloquence, by his learning, by his will, by his fame, and so, suitors find at their service no equal weight to throw into the scales of justice against him, perhaps the community, instead of losing, gains something by the subtraction of this disturbing force. But, this critic adds, with regard to a great and eminent judge, there arises no such question. His talents, his powers, his authority, his name, his fame, are wholly committed to the general interests of the whole community, and when he is withdrawn from the scene of his labors, and from their beneficent distribution and activity, it is, for the moment, as if the sun were taken from the heavens. Do we not all agree that, if this be true of any judge, it is true of Judge Nelson? Now, Mr. Chairman, may we not all be permitted to feel, at this point in this remarkable life, and before the end, death, has set its coronation to its illustrious work, that we may assign to Judge Nelson a place by the side of Eldon and Mansfield, of Kent and Spencer, of Shaw, of Marshall, and Taney, among those who share the lustre of the Homeric eulogy of men 'renowned for justice, and for length of days.' Indeed, sir, in face of the classic caution against premature judgment, we still fear no imputation of rashness in pronouncing this life fortunate, although it has not reached its close."

The address presented by the committee having been adopted, it was then resolved, on motion of Edwards. Pierrepont, that it be signed by the officers of this meeting, and presented to Mr. Justice Nelson. The following committee on presentation was appointed by the president: Edwards Pierrepont, Edwin W. Stoughton, Clarence A. Seward, Edward H. Owen, Charles M. Keller, William M. Evarts, Sidney Webster, Thomas C. T.

Buckley, Joshua M. Van Cott, John E. Ward, Samuel L. M. Barlow, Aaron J. Vanderpoel, James Thomson, Augustus F. Smith, John Sherwood. It was then moved by Edwin W. Stoughton, that a committee be appointed by the president to present the address and the proceedings of this meeting to the United States circuit court for the southern district of New York. An amendment thereto was offered by Clarence A. Seward, that the president of this meeting be chairman of this committee, which having been put to vote by Mr. Seward, and accepted by the meeting, and the original motion having been adopted, the president, in pursuance thereof, added the following gentlemen as members thereof: James W. Gerard, John McKeon, Daniel D. Lord, Benjamin D. Silliman, Joseph H. Choate, Stephen P. Nash, James C. Carter, Charles Donohue, George Bliss, Jr., Charles M. Da Costa. A motion of William

M. Evarts was then adopted, that a committee be appointed by the president, to present the address and the proceedings of this meeting to the supreme court of the United States at Washington; and the following gentlemen were appointed to form such committee: William M. Evarts, Edwards Pierrepont, Edwin W. Stoughton, George Ticknor Curtis, Samuel J. Tilden, George Gifford. Charles M. Keller, Charles F. Blake, Sidney Webster. John K. Porter moved that a committee be selected by the president, of which Edwin W. Stoughton be chairman, to present the address and proceedings of this meeting to the court of appeals of the state of New York, at Albany, which having been carried, a subsequent motion was made by Mr. Porter and adopted, that the chair be authorized to name the members of this committee after the adjournment of this meeting. The following gentlemen were subsequently selected by the president: Edwin W. Stoughton, John K. Porter, Francis Kernan. Lyman Tremain, Samuel Hand. On motion of George Gifford, the meeting adjourned. Charles O'Connor, President. Sidney Webster, Secretary.

Presentation of the address: In fulfilment of the agreeable duty imposed upon the committee appointed to present the foregoing address, Mr. Stoughton, Mr. Seward, Mr. Owen, Mr. Keller, Mr. Webster, Mr. Buckley, Mr. Vanderpoel, and Mr. Thomson, waited upon Mr. Justice Nelson at his residence in Cooperstown, on Wednesday, the 12th day of February, 1873. The committee invited the circuit and district judges of the federal courts for the second circuit to accompany them as their guests. Judge Woodruff (the circuit judge) and Judges Benedict and Blatchford (district judges) accented the invitation. Judges Shipman, Hall, and Smalley were unable to be present. Mr. Justice Nelson informed the committee that he would be pleased to receive them and the judges in his house at two o'clock. The attendance of Mr. Pierrepont, the chairman of the committee, having been prevented by illness, Mr. Stoughton was chosen in his place, and introduced the committee, and the purpose of its presence, by the following remarks:

“Honored Sir: We appear before you to-day as a committee of the bar of the second circuit, appointed at a large meeting of the members thereof, lately held in the city of

New York, for the purpose of taking action upon your retirement from the bench of the supreme court of the United States, after an uninterrupted judicial service of nearly fifty years. That meeting was presided over by the leader of the bar, Mr. Charles O'Conor, and the members of the bar composing it unanimously adopted an address, which with their entire proceedings, as there recorded, they have instructed the committee to present to you. We are here to discharge that agreeable duty. We are here upon a mission of deep interest to the bar we represent, and, as we believe, to the bench and to the country,—to the bar, because it owes to you reverence and honor for your long, unwearied service in encouraging and instructing them; to the bench, because it is your debtor for the noble judicial example you have recorded for its guidance; to the country, because you deserve its gratitude for the devotion of your life to its service, in the performance of duties the most arduous and the most useful which man can perform for his fellow-man. That distinguished members of the bench share these sentiments with us, is illustrated by the appearance before you upon this occasion, of Judges Woodruff, Blatchford, and Benedict, whose reputations have already become national, and who, laying aside other pressing engagements and duties, have come to you from a far, at this inclement season of the year, to manifest by their presence the interest which they feel in this most unusual ceremony. The other federal judges of the circuit in which you so long administered justice would have also been here, had not imperative engagements elsewhere prevented, as they have signified by letters which this committee will hand you. The committee regret that the sudden illness of their chairman, Judge Pierrepont, has prevented his attendance

here. In consequence of this, he who addresses you has been appointed in his place; and now, in discharge of the duty imposed upon the committee, we read to you the address of the bar, which we are instructed to present.”

Mr. Stoughton here read the address, and in delivering it to Judge Nelson, with a copy of the proceedings of the meeting, added: “In delivering this to you, as we now do, we tender to you our most heartfelt respect and reverence.”

Judge Woodruff then addressed Mr. Justice Nelson as follows: “The members of the bench of the circuit over which, honored sir, you have so long presided, desire to express their cordial concurrence in the sentiments of the address tendered to you by the bar of that circuit. So truthfully and so well those sentiments are expressed in that address, that we should weaken its force and gracefulness, and diminish the pleasure of this occasion, if we were to attempt a reiteration, on our own behalf, of what has been there stated. As members of the bench, we may, however, add, that your long experience and the learning and wisdom you have brought to the discharge of the duties of your high position have lessened our labors, enlightened our understandings, eased the burden of our responsibilities, and greatly furnished us for the performance of the duties we have yet to discharge; which we have to discharge, I regret to say, without the present aid, counsel and advice we should receive from you had you deemed it wise to continue in the position from which you have now retired. “Sour learning has instructed us; your example has stimulated and encouraged us to a higher estimate of judicial worth, and has awakened a nobler ambition to do what belongs to our several duties so as to gain a kindred, though it be humbler, appreciation when our work shall be finished. By that example our pathway is made luminous, and the grace and dignity which adorn the judicial office is constantly presented to us. A judicial life of fifty years I marked, all along its array of days and months and years, by learning, integrity and a pure conscience, and by the honor, respect and confidence of your fellow-men. Our sincerest wish can offer to you no higher or warmer expression of our admiration and regard than the earnest prayer that we may be able, in our stations, to deserve some reasonable proportion of the esteem now so justly and so cordially felt for you. I have, further, only to say: may the days be yet many in which you shall go in and out before us in reverence and in honor. May your last days be your best days; and may they be crowned with that reward which is the true aspiration and the blessed hope of a Christian life.” Mr. Justice Nelson made the following reply: “Gentlemen of the committee: I cannot but feel extremely honored by this address of my brethren of the bar, on the occasion of my retirement from the bench, not more from the friendly and complimentary opinions therein expressed than on account of the unusual and extraordinary mark of respect and affection with which it has been presented ; and I am the more deeply impressed with this manifestation from the consideration that the gentlemen of the bar who have originated and promoted this honor, some of whom

are before me, have been themselves not only eye-witnesses of the judicial administration which they so favorably commend, but in which many of them largely participated in their professional capacity. I shall ever recur to the sessions of the United States circuit court held in the city of New York, extending over a period of more than a quarter of a century, with pride and pleasure. The calendar was large, and many of the causes important, involving great labor and responsibility. As an evidence of the magnitude of the business for many years, the court was held three months in the spring and three in the autumn of the year, and still left an unfinished calendar. But the gentlemen of the bar concerned in the trials were intelligent, faithful to their clients and to the court, whose learning and diligence in the preparation greatly relieved the judge of his labors, and whose professional deportment and respect banished from the courtroom every disturbing element, leaving free the full and undivided exercise of the faculties of court and counsel in their inquiry after the truth and justice of the case. No one knows better than the presiding judge how essential this state of feeling between the bench and the bar is, not only to the ease and pleasure, but to the sound and successful administration of the law. I have said that the gentlemen of the bar who have originated this unusual honor have been eye-witnesses of the judicial services so highly commended. On the other hand, I can say that I have witnessed their professional career from the beginning, and until their present eminence, many of whom hold my license to practice when chief justice of the supreme court of the state. The eminent chairman of the meeting, Mr. O'Connor, the eldest of them, is scarcely an exception. The first session of the supreme court of the state, after my appointment as associate justice, was the May term of 1831, held in the city of New York, more than forty-one years ago. He was then a young counsellor, just rising in the profession. He held a good many briefs in cases before the court from the young attorneys, and was struggling upward manfully and with youthful ardor, contending for the mastery, against the aged and elder counsellors at the bar—Jay, Ogden, Colden, Munro, the elder Slosson, Sherwood, Anthon, Duer and others, who then held almost a monopoly of the business before the courts. The prevailing impression had been, and to a qualified extent was then, among the junior members of the bar, that the experienced seniors had the ear of the court. This, according to tradition among them, had been undisguisedly so, and to a much larger extent, before the old and revered supreme court of the state. But even at the time I speak of, this feeling in the court, and which was perhaps not unnatural, had not entirely disappeared. It required, therefore, ability, courage, and resolution on the part of the junior to encounter this impression, which he must in some degree have felt in the trial of strength against the experienced and favored senior. In the country, where I have always resided, Talcott, a young counsellor, remarkable for intellectual power and legal learning at his age, led the way, under some discouragements, in the trial and argument of causes before the circuits and in banc. Other juniors, taking courage from his example,

followed. He was afterward attorney general of the state, the youngest counsellor, I believe, ever appointed to that office in New York at the time, with, perhaps, the exception of Josiah Ogden Hoffman, among the earliest of the attorney generals. I was still young when advanced to the bench of the state, and, as was perhaps natural, my sympathies inclined toward the younger members of the bar, struggling upward and onward in their profession, and, as far as was fit and proper, they had my favorable consideration and kindness. I would do injustice to my feelings and convictions if I closed these few observations without making my acknowledgments to the bar of the second circuit, of my great indebtedness to them for any judicial standing to which I may be entitled. Since my first advancement to the bench, nearly half a century ago, I have had their uniform good-will and friendship, have been instructed by their learning and encouraged by the expression of their favorable opinions. They have ever been not only ready but forward to economize and lighten the labors of the court when the amount of the business pressed the hardest, even at the expense of their own personal convenience. So uniform and habitual were these exhibitions of respect and friendship, that I felt, when in court and engaged in the administration of the law, that I was surrounded, not in courtesy, but in reality, by professional brothers, and that every error would be charitably considered, and every act worthy of commendation would receive its full reward. This address of the bar of New York on the termination of my judicial labors, and in approbation of them, I look upon as the crowning reward, which will be a source of perpetual consolation in the decline of life, and so long as a

kind Providence shall permit the speaker to linger here on earth in the enjoyment of faculties unimpaired. “

PITMAN, JOHN.

[For brief biographical notice, see 30 Fed. Cas. 1390.]

The following proceedings are reprinted from 2 Cliff. 628:

At an adjourned meeting of the members of the bar of the Rhode Island district, on Monday morning, November 21, 1864, the following resolutions, reported from the committee previously appointed upon the subject, were unanimously adopted:—

“Resolved, that the death of John Pitman, district judge of the United States for the Rhode Island district, though an event in the course of nature at his advanced age of fourscore years, has, by its suddenness, in the midst of his labors, unannounced, in the still night, when no man keepeth watch, filled us with awe and dread in presence of that august power in whose hands are the issues of life.

“Resolved, that in recalling the judicial career of Judge Pitman, whether as witnessed by and known to ourselves or as derived from those who knew him in earlier years, we behold only virtue and goodness, an enlightened intelligence, untiring industry, unwearied patience, a clear perception, a sound mind, a conscientious love of truth and justice, uncorruptible integrity, unblemished honor, and a true humanity.

“Resolved, that though it is our peculiar province, as members of the legal profession, to express our sense of the character and worth of the deceased as a lawyer and a judge, we would not fail to recognize the common bereavement of the whole community in the loss of an able, upright, and faithful magistrate, an exemplary citizen and a good man, whose unsullied public and private virtues won for him the respect and honor of all men throughout his long and useful life, and have secured for him an affectionate, lasting remembrance in death.

“Resolved, that while we would not intrude upon the sanctity of private grief, we respectfully tender our sincere condolence to the family of the deceased in their great bereavement.

“Resolved, that Wingate Hayes, Esq., be requested to present these resolutions to the United States circuit court now in session in Providence, with a request that they be entered upon the minutes of the court as a tribute of respect to the deceased.

“Resolved, that as a further mark of respect we will attend the funeral of the deceased in a body; and that these resolutions, signed by the chairman and secretary, be communicated to the family of the deceased, and published in the daily papers. Samuel Currey, Chairman.

“James Tillinghast, Secretary.”

Proceedings in the United States circuit court:



The United States circuit court convened, pursuant to adjournment, in the court room, on Monday morning at 11½ o'clock, Judge Clifford presiding. There was a large attendance of the members of the legal profession. Hon. Wingate Hayes, at the request of his associates of the bar, presented and read to the court the foregoing series of resolutions, and made the following address :—

“May it please the court:—The members of the bar of this district have requested me to present to the court certain resolutions adopted by them as a tribute of their respect to the memory of the late Hon. John Pitman, judge of the United States district court for this district. In performing this duty it may not be improper for me to refer to some of the prominent events of his life, leaving to your honor, from whom the bar hope to have a response to their resolutions, and to my older brethren, who enjoyed a longer and more intimate acquaintance with Judge Pitman, to speak of those qualities of head and heart which particularly distinguished him. Judge Pitman was born in Providence, February 23, 1785. He graduated at Rhode Island College (now Brown University) in 1799, having entered that institution in the tenth year of his age. He received from the same University in 1843 his degree of doctor of laws, and at the time of his decease had been one of its trustees or fellows for more than thirty-six years. Upon leaving college he entered the law office of Hon. David Howell, who was afterwards his immediate predecessor as district judge, and pursued the study of the law there, and at Pough-keepsie, N. Y., and in New York city, for nearly seven years, when arriving at the age of twenty-one, and becoming eligible to admission to the bar, was admitted to practice in the mayor's court of New York in June, 1806,—De Witt Clinton signing his certificate of admission,—and in the supreme court of that state in the August following, his certificate then being signed by Chancellor Kent. He opened an office in New York city, but in the spring of 1807 went to Kentucky, where in the September following he was admitted to the bar, and practised law until September, 1809. He then returned to Providence and practised his profession until 1812, when he removed to Salem, Mass. There he formed the acquaintance of Judge Story, an acquaintance which ripened into an intimate friendship, and was terminated only by the death of that distinguished jurist. Mr. Pitman remained in Salem four years, and then opened an office in Portsmouth, N. H., where he practised law from 1816 to 1820. The events of the period during which he resided at Salem and at Portsmouth, and the associations and influences by which he was surrounded, were well calculated to develop those traits of mind and of character which marked him during the remainder of his life. The war between this country and Great Britain, and the complicated and important questions growing out of it, furnished a large business to those lawyers whose learning and skill commanded the confidence of the community. Mr. Pitman soon entered upon an extensive practice in the prize courts, and drew, it is said, —with what truth I do not know,—the first libel in prize under the constitution of the United States. The Reports of the United

States circuit court and of the supreme court of the United States attest with what ability and success in the discussion of the law of prize he met in those forums; the leading advocates of the country, some of whom, like Mr. Dexter and Mr. Webster, became, and remained for life, his personal friends. At the New Hampshire bar he came in contact with such men as Mason, Jeremiah Smith, Bartlett, Sullivan, and the Bells,—names your honor will readily recognize, of lawyers in the front rank of their profession. In 1820 he returned to his native town, where he continued to reside ever afterwards, with the exception of a few years which he passed at his country residence on the shores of Narragansett bay. In December, 1820, he was appointed district attorney, and in 1824, district judge, which office he held for forty years, and until the time of his decease. On Tuesday last, in the absence of your honor, Judge Pitman presided in this court, and delivered the charge to the grand jury. On Wednesday and Thursday he sat by your side, attentive and interested as usual in all the business of the court. Thursday night his spirit passed away. The death of Judge Pitman, at any time, could not fail to be an event of melancholy interest to this community. Occurring as it did in the daily performance of his judicial duties, stricken down almost in our very presence, the public, and especially the members of this bar, have received the intelligence with the most profound emotion. While I would not intrude upon the province of others in attempting an estimate of the judicial character of Judge Pitman, I may be permitted the single remark that no man could see him upon the bench without being impressed with his perfect impartiality, firmness, and love of truth. He was ‘*justum et tenacem propositivum*.’”

Hon. Samuel Currey then addressed the court as follows:

“May it please your honor: I have much to regret the absence on this occasion of the Hon. Richard W. Greene, the senior practising member

of the bar in this district. I have just received a letter from him stating that illness prevents his attendance here, and requesting me to express to the court his regret at being absent on this melancholy occasion, as well as the deep sympathy that he felt with the court in its bereavement, and also his own sorrow at the loss of a personal friend, with whose career as a lawyer and a judge, and whose character as a man, he had been acquainted for a great number of years, and with whom he enjoyed the warmest friendship. Judge Pitman was an old man comparatively, when I first knew him. He had already sat a number of years upon this bench. I formed his acquaintance, and I recall it now with pleasure and with emotion, under his own roof, in the sanctuary of his own home, when I was a young man and a student in college here thirty years ago. I recall with pleasure and pride his kindness, his generous, urbane hospitality, his gracious deportment and manner to me as a young man, as gentle as a woman, as simple as a child. I have had the pleasure—and I have always esteemed it a great one—of enjoying his friendship from the first to the last of my acquaintance with him. Many changes have occurred within those thirty years, but none in Judge Pitman, except— the effect of advancing years—an increasing goodness and sincerity of character. I think, sir, I but express the sentiment of this whole community, and the entire circle of Mr. Pitman's friends and acquaintances in Rhode Island and out of it, when I say that he was a singularly pure, upright, and honest man,—the highest and the best attainment of humanity, and the noblest work of God. To say that he “was an impartial judge, is only to say what was almost self-evident to every man. To say that he was an honest judge, is to say that he attained to the highest honesty of which human nature is capable. To say that he lived his long life, that he officiated in his long judicial career without blemish and without censure, without spot or imperfection of any kind, except what necessarily pertains to humanity, is but to say what every heart feels on this occasion.

“Judge Pitman's career was an enviable one. To be a judge is to fill a high place in human society. To be a judge and to render satisfaction to the community in which his magistracy is exercised is the greatest honor that can befall a man, as it is the highest attainment of our laborious profession. But to have been associated many years in his judicial career with such men as your honor's predecessors on this bench, with Judge Curtis, with Judge “Woodbury, and for a much longer course of years with the illustrious Judge Story, was something to be written in any man's biography. I know from the testimony of the jurists to whom I have referred (and I never heard anything to the contrary from any of them,) that he enjoyed in a singular manner the friendship, confidence, and love of your honor's predecessors on this bench. I am not able to go behind the period of my own experience, but that experience extends as a professional man over more than twenty-five years in this court; and during that period I have always admired the patience, the industry, the calmness, moderation, firmness, and dignity of Judge Pitman, both when

he has been sitting with his associate chiefs and when he has been sitting alone. I remember an instance which I may be permitted on this occasion to mention. Some years since, when he had a laborious case to decide, he said to me, as I happened to be in his office on chambers business: 'Have you given attention to such a question of law? I have been trying to get at the foundation of that question; I believe the more I study into the law, the further I am from reaching the sources of its knowledge.' He stated to me what the question was and how much time he had bestowed upon it. And I recollect subsequently hearing his written opinion or decision upon the case, which embraced a very wide examination of statute and common law. This instance is but one of many I could mention, detailed to me by members of the profession older than myself and now passed away, by gentlemen who enjoyed his friendship, who were intimate with him as a man and familiar with his character and his labors as a judge, and who entertained toward him the same high opinion which I had formed and have now endeavored feebly to express. Today, your honor, we part with this eminent man forever. His place among the living is vacated. He has withdrawn. But the philosophic mind, and yet more the Christian mind, cannot help tracing him in a future life. And as we stand here to-day to do him honor, to recall the life that he lived here, the character he exhibited here, the virtues he possessed here, the purity and uprightness of the man, the sincerity of the Christian, we can feel no uneasiness as to his condition in the future and the better world. He died in a good, honored age. He died, as far as we know, without suffering and without a pang; and we can say, 'Peace and honor be to his grave, and immortal happiness to his spirit,' as we bid him, to-day, farewell."

Judge Clifford responded as follows: "The court cordially concurs in the resolutions presented by the bar as a tribute of respect to the memory of the late Judge Pitman, district judge of the United States for this district. Your request, also, that the proceedings of the bar may be placed upon the records of the court is a very proper one, and one which receives the ready assent of the court. Considering the kindly relations always subsisting between Judge Pitman and myself since our acquaintance commenced, I cannot suffer the occasion to pass without remarking upon the circumstances under which they have been sundered, and expressing my own deep sense of the loss which the court, the bar, and the public have sustained in his death. You all know that the present session of the court was opened by him in my absence on the 15th of the present month, and that he presided during its organization and delivered the charge to the grand jury. On the following day he sat by my side during the greater portion of the session, and concurred in the opinion which was read at the opening of the court. Towards the hour of adjournment, but before the session closed, he signified his intention to retire on account of ill health. Pursuant to his usual course on such occasions, he requested that the trial of the cause before the court should proceed, leaving it to be inferred that he would shortly

return. Supposing that he would presently resume his seat on the bench. I acquiesced in the suggestion, and the trial of the cause proceeded. When he left his seat I have no doubt he expected to find relief in the open air, and that he in a brief period would be able to return; but he was disappointed in that expectation. Failing to find the expected relief, he left and went to his residence, and at the usual hour in the evening retired to rest. Whether he slept or not is not known, but when morning came it was found that his spirit had fled to Him who gave it, and it may confidently be hoped to receive the reward of an upright, faithful, and unoffending life. Such, in brief, are the circumstances under which your and my official relations to the deceased have been suddenly terminated; and I cannot but think that they are such as should admonish us all that in the midst of life we are in death, and that no one here knows who will next be called to give his final account. Happy indeed will it be for that one, whoever he may be, if he can hopefully expect to be as well prepared for the solemn event as was the subject of these remarks. Judge Pitman was born in this city on the 23d of February, 1785, about two years after the treaty of peace. Nativity, however, was by no means the only tie which bound him to your locality. On the contrary, it was here that he received his classical education, and it was here also that he pursued the study of the legal profession as the chosen pursuit of his life. Having completed his preparatory studies, he entered Brown University in September, 1795, and graduated there with the degree of bachelor of arts in four years after he was admitted. Shortly after he graduated he entered the office of David Howell, Esq., afterwards district judge of the United States for this district, and completed his studies in his office. Like most young men, when first admitted

to the bar, his first inclination was to leave his native city and to endeavor to earn success and distinction in some other locality. Accordingly he practised law for a short time in the city of New . York, and afterwards at Salem, in the commonwealth of Massachusetts, and then removed to Portsmouth, in the state of New Hampshire, where he remained for four years. During the period last mentioned, he was brought in contact with some of the ablest jurists in the United States. Rockingham bar at that period had enrolled among its members such men as Webster, Mason, Smith, Sullivan, and Bartlett, as well as many others of great learning and experience. Contemporaries of that day agree with one accord that Judge Pitman even in that circle sustained a high rank in his profession, and that his personal character was above reproach. All who knew him concurred in the opinion that he was a lawyer of good judgment, high attainment, and much esteemed by the court. Actuated, however, by the attachments of early manhood, he accepted, in September, 1820, an invitation to return to his native city, where he has ever since resided in the midst of the friends of his youth. President Monroe appointed him district attorney of the United States for this district on the 9th of December, 1820, and he continued to discharge the duties of that office with distinguished success until the 4th of August, 1824. when he was appointed district judge of the United States for this district. Forty years and more have elapsed since he entered upon the duties of that important office, and there lives not a man to say that he has been guilty of intentional error. Better things need no man have said of him than can be truly said of the subject of these remarks, that his whole course as district judge of the United States was such for the period of forty years that all knowing him agree that he was a good man and a just magistrate. Prior to my appointment to the bench of the supreme court, I had no personal acquaintance with my lamented associate. Since that time our relations have been intimate and cordial. Gone to the grave in the midst of a community where he was born, and where he has lived for the last forty years, he needs no commendation from any quarter. Justice, however, requires me to say that for the six years during which we have been associated together in this bench, I have always found him faithful to his duties, and anxious, in the decision of cases submitted to our determination, to reach the justice of the cause without the least bias, prejudice, or partiality. His example of purity and uprightness is a good one, which all may well seek to emulate, but which few or none can “hope to excel. Pursuant to the request contained in the resolutions, let the proceedings of the bar be placed upon the records of the court.

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#### POPE, NATHANIEL.

{For brief biographical notice, see 30 Fed. Cas. 1391.}

The following obituary notice is reprinted from 4 McLean:

Since the publication of the third volume of these Reports, it has pleased God to call from life the Honorable Nathaniel Pope, district judge of Illinois. He died, after a brief

but severe illness, at St. Louis, shortly after the adjournment of his court, at Springfield, in June, 1849, about sixty-six years of age. Judge Pope was among the early settlers in Illinois. He first established his residence at Kaskaskia, and continued to reside there until within a few years before his death. The place was abandoned by him, probably, from the repeated floods in the Mississippi, of late years, which inundated the town and rendered it unhealthy. When he first made Kaskaskia his residence, it was, in population and intelligence, the first place in Illinois. It was the seat of government for the territory. On the organization of the Illinois territory, in 1809, he was appointed, by Mr. Jefferson, secretary of the territory; which office he filled with credit to himself, and usefulness to the public. In 1819 the state of Illinois was organized, and Judge Pope accepted the appointment of district judge of the United States. At the time of his death, he had been thirty years on the bench, a length of time, of which we have few examples in our country. While secretary of the territory, and until he was appointed to the bench, Judge Pope practiced his profession; and, from the first, stood at the head of the bar in the territory. He had influential connections and friends in Kentucky, and elsewhere, which, with his own high standing, gave him no small influence with the earlier administrations of the general government. And in his territory and state, he was a very prominent and leading citizen. His independence and strict adherence to the political principles he avowed, which may be classed with the Jefferson school, left him behind the progress of others, who professed to be of the same school.

He was a man of decided talent. He never sought to become conspicuous as a speaker on the stump, at the dinner table, or in any such ephemeral exhibitions. But he was a man of much research, and of deep thought. He had a very strong and vigorous mind. In conversation, and in his opinions on the bench, and elsewhere, he was distinguished for the soundness of his positions, and the force of argument by which he maintained them. His arguments were drawn more from the resources of his own mind, than from the hackneyed views of others. Whilst, in his legal opinions, he showed great respect for authority, he was never satisfied where his own judgment did not lead to the same conclusion. I was associated with him twelve years on the bench, and I seldom differed from him, in an opinion pronounced, without feeling solicitude in regard to my own views. He was an able common lawyer, and there were but few persons, in any part of our country, whose constitutional opinions were entitled to higher respect. With the history of the constitution he was well acquainted; and he understood well the respective powers of the federal and state governments. He seemed to be more desirous of discharging his duty faithfully, than of leaving memorials of his acts. He reported but few of his judicial opinions, two or three of which give value to this volume. No man entertained loftier views of the duties of a judge, and no one ever exercised a purer judgment in the decision of causes. Firm in his convictions, he never yielded them without being convinced of error;

and then no one conformed to right and justice more cheerfully than he did. In this he set a beautiful example of an unbiased judgment, however strong and firm, ready to yield to the force of argument. He was above the infirmity of narrow minds, which considers a change of opinion as evidence of weakness. The state sustained a great loss in the death of this distinguished man. To his family the loss was irreparable, as he lived in their affections in no common degree. And associated with him as I had been, for so many years, I heard of his death with the deepest sensibility, and sincerely deplore his loss.

SPRAGUE, PELEG.

[For brief biographical notice, see 30 Fed. Cas. 1395.]

The following address of the bar on his retirement is reprinted from 2 Spr. 352:

To the Honorable Peleg Sprague:—Sir: The members of the bar of the courts of the United States, in which you have presided during the last twenty-three years, cannot allow you to withdraw yourself from the office of judge without an expression of their high estimate of your public services, their profound respect for your judicial qualities and attainments, and their grief for the physical disability which has caused your retirement. They esteem it to be due to their country, to you, and to themselves that they should bear their testimony to the great value of those services and to the rare combination of intellectual and moral powers which alone could make them possible. They have found you to be not only thoroughly instructed in the common law, but



master of those special branches of jurisprudence and legislation which it has been your peculiar province to administer. They have found in you such power of analysis as they have not known surpassed, united with sound judgment to weigh its results. They have found in you that absolute judicial impartiality which can exist only when a tender and vigilant conscience is joined to an instructed and self-reliant intellect and a firm will. And these great powers and attainments have been used by you so steadily, so patiently, so continuously, through more years than are comprised in the professional life of most of us, that we have scarcely known, and your patience and courtesy have never allowed us to realize, that, during much of the time, you have been a sufferer from physical pain, and, during all the time, that you have been in a great measure unaided by that precious sense of sight, without which such labors as yours would have seemed impossible. "We are heartily thankful for the great benefits you have conferred, not on us only, but on this community, and on our country, whose judicial bench you have strengthened and illustrated. We deplore the cause which has seemed to render your retirement necessary. Would that it were in our power to do something to alleviate your condition, instead of giving expression to our sorrows and to our affectionate respect !

B. R. Curtis,	G. S. Hillard,
Charles G. Loring,	H. W. Paine,
Sidney Bartlett,	John C. Dodge,
J. H. Clifford,	B. H. Dana, Jr.,
T. D. Eliot,	C. L. Woodbury,
George Lunt,	S. H. Phillips,
Committee of the Bar.	

Boston, March 27, 1865.

#### STORY, JOSEPH.

{For brief biographical notice, see 30 Fed. Cas. 1395.}

The following proceedings are reprinted from 1 Woodb. & M. 9:

At a meeting of the bar of the circuit court, on the 1st of October, 1845, Hon. Stephen Longfellow, the president of the bar, in the chair, the following resolutions, which had been drawn under previous appointment by Charles S. Daveis, Esq., were presented and adopted:

"Resolved, that the members of the bar of the circuit court of the United States in Maine, do not meet for the first time since the lamented decease of the Honorable Joseph Story, late presiding judge, without deep emotions of sorrow and sympathy. That although they were not sure that they should ever see him again upon the circuit, and experience the continued benefit of his eminent judicial talents, and invaluable labors upon this bench, they hoped that the sphere which had been so long enlivened by his active presence, would be still animated by his living spirit; and from the vigor and vitality of his

constitutional temperament, the vividness of his intellect, and his undiminished interest in the cultivation of his favorite science, they had looked forward to an extended period, in which the public and the profession should enjoy the prolonged light of his powerful and comprehensive mind, and the genial influence of his instructions and example, among the emanations that should most gracefully adorn, in its grateful coming on, the mellow evening of his life.

“Resolved, that while in common with the rest of their professional brethren, and the great community of the wise and good, throughout the country, they share the sense of this immeasurable and universal loss, so much deplored by the lovers of justice, virtue, and order, everywhere in our land, they cannot but feel, in the most lively” manner, the portion which falls to their own lot; nor cease to recall the gratification inspired, and the cheering and instructive impulses imparted, by his spring and autumnal visits to this part of the circuit during the space of near a quarter of a century. And that the brief moment which has elapsed since his lamented decease, has not abated their earnest desire to offer and record their imperfect expression of admiration for his departed worth, and cherished attachment to his memory.

“Resolved, that in coming together from distant parts of this district, on the morning of the fall term which forms the commencement of the eastern circuit, so suddenly ensuing upon this striking termination of his unexpired judicial labors, while they do not feel that they can add anything of weight to the first spontaneous tributes that have already been so worthily paid by older bars, and especially that which was pronounced with so much force and feeling upon the immediate announcement of the mournful event, by the assembly of the bar of the metropolis of New England, to his consummate character as a judge, an author, a teacher, a citizen, and a friend, it may not be unbecoming that they should embrace the occasion thus presented, and thus bringing home to them the abrupt and affecting close of their late relation, to declare their consciousness of the distinguished privilege they have enjoyed in its having subsisted so long and with so much cordiality and satisfaction, and with so much advantage, as they persuade themselves, to the advancement and dignity of the profession, and the illustration of the doctrines of the legal science, in the high administration of justice in all its appropriate departments upon sea and land; and that they should indulge their own sincere feeling, in summing up in such expression as may be in their power, the high sense they entertain of his singular excellence and endowments as a jurist, a magistrate, and a man. As no one was more generous in his own awards to the merits of others, or poured more faithful tributes to those whom he as lamented, it is meet that his memory should not want the meed which it has so richly earned, and that full measure of acknowledgment and appreciation, of which, however amply accorded by contemporary testimony, the delicate propriety of professional relations

may have suppressed the unrestrained utterance during his official life. To him, no longer living, we only pay due honors.

“Resolved, that while many of us remember the lively satisfaction with which the extension of his circuit to this district was hailed, and recall the occasion of his cordial greeting upon the erection of our eastern section of the ancient commonwealth into an independent state, and some still recollect the period of his original elevation to the bench, we may all rejoice that the day has more than fulfilled the auspicious dawn, and has created such a clear and steady light, so broad, illuming, and vivifying, wherever it has spread, and upon whatever subjects it has shone, that although the living orb may be withdrawn, no night can follow.

“Resolved, that we regard his advancement to the highest seat of our American judicature, in conjunction with his eminent associates upon the supreme tribunal of the nation, and his able coadjutors upon the circuit, as marking an epoch from which we may date an era in the annals of our jurisprudence, of which our time shall, happily, not see the end; one, as we may properly feel, on the part of the American bar, of which his vast and various learning, the affluence of his juridical attainments, the universality and splendor of Ms accomplishments, the munificent gifts which he has laid upon the altar of the law, the attractive graces with which he has attired its service with those elaborate and abundant expositions, of which he was the author, to us its breathing oracles,— have been among the most authentic and important elements. And when we call to mind his zeal in the cause of its science, his unwearied and exhausting labors in deepening and clearing the sources, conducting the streams and enlarging the limits of legal knowledge, the mature developments, and disciplined energies which he has brought to it, of his intellect—and summon up that signal capacity of grasping the most abstruse, complicated, and difficult subjects—that quickness of conception, almost amounting to intuition, outstripping the process of logical deduction, and anticipating the results of profound and laborious reflection — that vigor of comprehension from

which nothing escaped—that fervent and intense analysis, of which nothing could elude the keenness or resist the force—that eminent sagacity and judgment to which his other faculties were sub-serpent, and all other operations and resources only ministering — the copiousness and clearness of living eloquence with which he has illustrated, explained and enforced the strictest and purest doctrines of law and equity—the charms he has given to the study, and the captivations with which he has invested the pursuit—the elevation he has imparted to the practice—the scale of legal attainment, and standard of professional excellence, which he has done so much to raise and to improve—the exalted tone of morality which he has infused, and the enthusiasm which he has inspired, especially in the breasts of younger votaries, and the undecaying glow which he has lighted up again in the bosom of those who have longest cultivated the profession, at once kindled and fed by the treasures of legal lore which he has lavished upon it—and when we add again the kindred fields of philosophy and literature which he has delighted to explore, and from which he has won so many appropriate wreaths—and more than all, when we bring up to our thoughts that true, enlarged and essential humanity which was the life-spring of his nature, and gave such energy to his indignant denunciations of all the darker violations of its natural dictates, that genuine love of liberty which he cherished with religious devotion, and the intrepid firmness with which at the same time he upheld the most rigid sanctions of private law, and the most grave and sacred injunctions of public justice—we deem all these to have given a splendor to his name and time, and to have thrown a glory around them, which, while it has illuminated our own hemisphere, has cast its effulgence with no measured radiance, or mere reflected lustre, abroad—and have made him by all confession among ourselves, and the consenting suffrage of enlightened foreigners, one of the greatest masters of the legal science in the world, and the most illustrious genius of the jurisprudence of the age.

“Resolved, that while we thus partake in no common share the sensibility with which society in all its circles surveys its loss, in him who sleeps beneath the tranquil shades of Mount Auburn, now consecrated anew by receiving his remains; and while we mourn with those who mourn it most, and forget not the goodness of his heart, the gentleness and united ardor of his nature, the genuineness and instinctiveness of his sympathies, and pass not over what has been termed, with more than classic purity, the daily beauty of his life, and all those blended graces in his character, which were among its most expressive lineaments; and while we may be allowed to call to mind especially the cordial charm which he threw over his constant intercourse with his professional brethren, like that which pervaded his whole familiar converse; we may well rejoice, and with devout gratitude, above all, we do rejoice, that his great powers were bestowed upon some of the best and weightiest interests of the social state, the most grave and important objects to which the highest active, moral, and intellectual powers . can be applied, the most vital

concerns to the well being and condition of mankind, in the established reign of justice, equity, and order. We rejoice that it was eminently his fortune to carry out so near to its natural close, a career rarely equalled in the judicial life of a single individual, rewarded by so many results, and crowned with such celebrity. The sun knoweth his going down. And although painful and unexpected, we may not feel it to be otherwise than a final, harmonious felicity, in keeping with his single lot, that he should have breathed his last before he retired from the bench: 'Felix non vitæ tantum claritate, sed etiam opportunitate mortis.' We rejoice, too, that faculties which could have never been imparted in vain, and seldom granted with more prodigality, should have been thus exerted for some of the noblest earthly purposes to which they could have been appointed—that he should have exercised so large and

beneficent an agency in the most useful affairs of society, and varied interests of mankind—that trusts of the most important and comprehensive character, such as are implied by Providence in the talents given, and their highest principles in the capacity for their discharge thus committed, should have been so far fulfilled—that he should have left such invaluable legacies of his wisdom and learning to the profession and the world, in works of which we cannot weigh the worth, and which those who come after us, will not willingly let die. And we may well rejoice, moreover, that he should not have been called to pay the great debt to nature, until he had so largely and so nearly discharged that which it was his pride to acknowledge himself to owe to the science and the profession; one which he felt within himself such a conscious power to discharge, so far as it should be compatible with the sovereign dispensations of the divine will. And most devoutly do we rejoice that the record of his fidelity should have so fully been completed. 'Quicquid ex illo amavimus, quicquid mirati sumus, manet, mansurumque est in animis hominum, in ætèrnatate temporum, famarum.' While we are thus called to feel, in his own expressive words, that 'there is an excellence over which death hath no power, but lives on through all time, still freshening with the lapse of age;' and are also led to read the solemn sentence inscribed upon the portals of the grave, 'Then shall the dust return to the earth as it was. and the spirit shall return unto God who gave it,' and are drawn to listen to the closing requiem of mortal labors, in the divine voice, 'Blessed are the dead, that die in the Lord, for they rest from their labors, and their works do follow them;' we follow with this parting tribute of our affection and admiration the departure of his immortal spirit, entering upon that reversion of fame which awaits illustrious worth in this world, and, as we humbly hope, that high reversion which faith assigns to the pure and just in the future.

"Resolved, that these resolutions be communicated to the Court at the opening of the term, and that a copy be also forwarded to the family of the deceased by the President.

"Stephen Longfellow, Pres't.

“Phineas Barnes, Sec’y.”

On the opening of the circuit court, on the same day, in pursuance of the foregoing, the attorney of the United States, Augustine Haines, Esq., presented these resolutions to the court, with an appropriate address. To these proceedings, his honor, Judge Ware, the associate presiding judge, responded as follows.

“Gentlemen of the bar: On my part, as one of the court, I receive with profound sensibility, and cordially respond to the terms in which you have expressed yourselves in regard to the late presiding judge of this court. Having been associated with him for more than twenty years in the performance of judicial duties in this district, on this occasion, which brings back fresh to my recollection the incidents occurring in an official connection of such a length of time, in all respects so pleasant and instructive, and now forever dissolved; I should do injustice to my own feelings, if I should confine myself to a mere formal “response to the sentiments which have been so appropriately expressed by the gentlemen of the bar.

“Since the last term of this court, by the dispensation of an all-wise Providence, he has been called to the world of his fathers, prematurely, we shall be ready to say, when we regret the loss of what a few years more of life and health, if they had been spared, might have given to our common country, and especially to the profession to which his life had been devoted; but we can hardly say prematurely when we look to the monuments of learning and industry which he last left, or to the widespread fame which rests as a living glory on his memory. He has been called from the scene of his labors, full of honors and ripe with the fruits of a well-spent life. Judge Story, with an intellectual temperament which perhaps originally inclined him to the more Graceful and attractive pursuits

of general and polite literature, early applied himself to the severer studies of the law; and without wholly abandoning the cultivation of elegant letters as a graceful ornament in every profession of life, devoted the main energies of his mind to his chosen science. From the commencement of his professional studies, this became the great business of his life, and was continued with unwearied perseverance to its close. From such long and persevering devotion, continued with a zeal that never cooled, I may say with an enthusiasm that never faltered, much might be naturally expected even from common powers of mind. But when that patience of labor that asked for no repose, was united as it was in him with extraordinary quickness of apprehension, a remarkable tenacity of memory and rare maturity of judgment, great effects might naturally be expected. The result certainly has not disappointed what might have been the most sanguine anticipations of his friends. He has placed himself among the very greatest lights of jurisprudence, if we may rank him with a Parsons, a Marshall and a Kent, of our own country, without apprehension that he will suffer by the comparison, so we may place him in company with the greatest names in jurisprudence that have adorned the annals of that country from which we have derived the body of our common law. There are few who will not admit that he was a fit companion for the Hales and Holts, the Hardwickses and Mansfields, who have illustrated the law in the land of our fathers. In the monuments of learning and industry which he has left behind him, he far excels any of them. His juridical works, including his judgments pronounced in litigated causes argued before him in the circuit court, together with his elementary treatises on various titles of the law, fill nearly thirty large volumes, the exclusive productions of his own mind, exclusive of his numerous and often very elaborate opinions comprised in the series of the Reports of the Supreme Court, extending through a period of thirty-four years. Few men, of whatever fertility or industry, in any department of human learning have ever written more. No magistrate and no author in any age has enriched the jurisprudence of the common law by so great an addition to its treasures, whether we regard his works in their actual amount or the variety of the subjects which they treat. Called upon by his official station to administer every branch of the law, his judicial opinions cover the whole ground of jurisprudence, and he has treated them all with such affluence of learning and accuracy of discrimination, that it is difficult to say with what department of the law he was most familiar. Whether he is dealing with the abstruse and technical points of the old common law, or, the complicated and subtle, as well as the liberal and enlarged principles of equity, or again with the delicate and difficult constitutional questions which arise out of our mixed and complex system of simple and complex governments, or with those great subjects of international law which grow out of a state of war, and arise in the prize jurisdiction of the admiralty, his knowledge seems to be equally intimate and exact in all. On all these matters, so various and important, he has been called upon officially to form and deliver opinions in which private rights

were involved and complicated, not only with great principles of law, but often with great public and national interests. It would be giving high praise to any magistrate to say that he exhibited intellectual endowments equal to the work. But in saying so much, I shall, I trust, be justified in adding that this would not be awarding the full measure of praise that may justly be given. On all of these he has exhibited a depth of learning, an acuteness of discrimination, a profoundness of judgment, and a fertility of illustration, which, all together, have been equaled by few magistrates of any age, and been surpassed by none.

“It may be too much to expect of any man, however wide his learning and however penetrating his judgment, that every decision made in the course of a long and laborious judicial life, should be free from all error. Never to fail in judgment does not belong to the condition of humanity. And if it shall hereafter appear on a more profound and critical examination, that error has in some cases crept into his judicial opinions, it will, I believe, also be found that he has left as great a number of judgments behind him, which will remain to future ages permanent landmarks of the law, as any other judge that ever sat on the bench in this country or in England. But there is one quality in the judicial opinions of Judge Story, in which, if they are not altogether permanent, they are not surpassed by those of any other judge in the annals of jurisprudence. If there be a latent error in them, they usually themselves furnish the means by which it may be detected. For such was his conscientious diligence, the extent and profoundness of his learning, and the fertility of” his mind, that the subject was seldom dismissed until it had been analyzed with the most thorough exactness, until all its analogies and distinctions had been critically examined, the whole dissected by a most subtle and accurate logic, and over all had been thrown the light of all the learning that pertained to the matter. So that if the reader hesitates as to its conclusion, the exuberant learning with which the opinion overflows will lead him to all the law which is applicable to the subject. So thorough and exhausting is the examination in some of his opinions, that they may be studied and relied upon, both as elementary and didactic commentaries, and as copious and complete disquisitions on the particular points of law involved in the cases, so that the most careful researches into the sources of the law will add nothing to the fullness of the discussion. It may well be doubted whether any magistrate in any age ever has pronounced more judgments of this character, equally distinguished for the variety and extent of learning, by which they were illustrated, and the profound analysis by which both the rules of law and the judicial decisions bearing upon them have been reduced to their simple elementary principles. But it is not only by profound and learned judgment that this eminent magistrate has enriched the science to which he devoted his life. He has given to the profession a large number of elementary treatises or commentaries on various titles of the law, at once so simple and clear in the method, that the unlearned may read them with the most easy and perfect comprehension of the whole matter that is treated, and at the same time so copious, exact and



searching in the analysis and discussion of principles and cases as leaves nothing to be desired by the learned. It is when we regret the loss of other works of the same character which we were led to expect from his learning and diligence, that we are constrained to say, in our deep regret and sorrow, that this great light and ornament both of his country and of his profession has been prematurely taken from the scene of his labors. From the contemplation of the great learning and laborious diligence which distinguished him as a magistrate, we may turn with singular satisfaction to the manner in which he discharged the various duties of his high and responsible office. All who have practiced in his court will bear witness to the uniform urbanity of his manner of presiding at trials. It was an urbanity that was extended to all. But to the younger and more inexperienced members of the bar, on their first introduction to the court, it was something beyond mere official civility. It was marked with that gentleness and indulgence that seemed to belong more to the partial favor of a parent than the severe gravity of a judge. And it was perhaps owing to this gentleness and suavity of manner in the presiding judge, that in the sharp conflicts which so frequently arise in the contentions of the bar, so few occurred, before him which left any root of bitterness behind them. On this occasion it belongs more appropriately to me to speak of him as a magistrate; but I cannot conclude this imperfect tribute to the memory, of a good and great magistrate without adding a few words of his character as a man. Great talents and great acquirements extort our admiration to a certain extent, with

whatever moral qualities they may be combined. But we render our homage with cheerfulness and pleasure only when we find them united with purity of personal character, unspotted integrity of life and elevation of moral sentiment that bear a just proportion to the endowments of the mind. On the unstained purity and moral elevation of Judge Story's character as a private individual and a member of society, the memory of his friends may dwell with unmixed pleasure. The moral frame of his mind had its foundations deeply laid in religious principle. He lived and died in the faith of a Christian, with a deep and habitual persuasion that he was both an accountable and an immortal being. It was this deep and abiding faith that lent its soft and beautiful colors to the whole tenor of his life, which gave energy to every effort which might improve and elevate the moral dignity of his fellow-men, which in the evening of life led him to seek a place of repose for the dead, which by its rural and tranquil beauties might associate images of gentle and melancholy tenderness with the most solemn feelings that ever enter into the heart of man, and finally prompted him, when the spirit was in his last moments flickering over his mortal and expiring body, in the last audible words he uttered, to commend his soul to the God who gave it. On a life thus spent and thus closed, surely his friends may look back with un-mingled pleasure. The death of such a man at any period of his life, is felt with deep sensibility, and more so, when as we fondly hoped that his days might have been prolonged through many years of usefulness. It was the will of Providence that it should be otherwise, and all that is left for us is to follow him to his grave with unavailing regret, and accumulate honors so richly due to his merits, the justice of which I trust will be acknowledged by a distant posterity."

Judge Woodbury then observed, in substance, as follows: "These resolutions, gentlemen of the bar, shall be entered upon the records. The appropriate tribute to the memory of my predecessor, which has been paid by you on this occasion, is most fully concurred in by the whole court. My associate has responded in feelings, common to us both, on account of the lamented decease of Judge Story, and also in those remembrances and delineations of his character, on which a longer and closer intimacy with him qualified and rendered it more fit for my associate to dwell. All of the profession, however, in this circuit, and to some extent in the Union, and indeed, wherever an enlarged jurisprudence, connected with commercial, constitutional and national topics, exists, may well take the liberty to express, what they cannot but feel, a deep sense of the great loss, they have sustained. The eloquence and learning, which in him have adorned this bench for near a quarter of a century, and still longer that of the supreme court of the United States, the tomb has now closed over forever. You will no more listen to the tongue, that so long and so ably vindicated here the jurisdiction and powers of the general government; and while it defended innocence with ardor, and relieved the oppressed by a most liberal exercise of equitable principles, lost no fit occasion to expose injustice and punish guilt. But it is

some consolation, that such men do not live in vain for the future any more than the past in respect to their fellow-men. The courtesy and blandness of manner in the deceased must long be remembered by most of us as models for imitation. His pure life, unspotted as the ermine of the justice he administered—his useful toils in serving his country and his profession—have sown seeds, which will long yield to both a rich harvest, and have met with those rewards from grateful millions, which will long encourage our youth as well as more advanced age to emulate his example. It is fortunate, that the records of much of his various labors will remain for the edification of us all. And, painful to many as has been the death of one distinguished by so many excellencies and so much usefulness, it is a source of gratitude, that his efforts were spared to the world so long, and till they had accomplished so much and that the fruits of them can never die, while the law endures as a science, and genius, industry and ambition, nobly employed, are held in veneration among men.”

Similar resolutions were passed in the other districts of the first circuit, and to all of them a similar reply in substance was made. They are omitted for want of room. The circuit court for the district of Maine was the first one held by Judge Woodbury under his appointment as associate justice of the supreme court of the United States.

The following is reprinted from 1 Newb. 315:

District Court of the United States. Fifth Judicial Circuit. District of Louisiana. New Orleans, November 3d, 1845. Hon. Theodore H. McCaleb, Presiding.

On the opening of the court, this morning, at 10 o'clock A. M., E. Warren Moise, Esq., rose, and after a few eloquent and appropriate remarks, moved an adjournment of the court, as a tribute of respect to the memory of the late Mr. Justice Story. This motion was seconded by C. Roselius, Esq., late attorney-general of this state. In granting the motion, his honor, Judge McCaleb, made the following remarks: “In yielding, as I do, a ready compliance with the motion which has just been made, I shall, I trust, be excused for making a few remarks. I am not so presumptuous as to imagine that I can add anything to the praise so justly merited which has already been bestowed upon the character of him whose memory it is” the object of the motion to honor. The duty of portraying the character and recounting the services of Mr. Justice Story, has already devolved upon those who, from intellectual superiority and from long personal acquaintance with his character, were peculiarly well qualified to perform it. It is my wish, simply, that on the present occasion the sentiments of admiration and gratitude for the long and signal services of the great jurist, expressed in such eloquent and pathetic terms by his immediate neighbors and friends, may find in our bosoms a cordial response. Though far from the scene of his active and zealous efforts to advance the great interests of the science in which he was long known and recognized as one of the ablest preceptors, we have, as Americans, been equally sharers in the benefits which his unequalled labors have diffused over our vast

Union. It is peculiarly fit and proper that the bench and the bar throughout our widely extended country, should do honor to the memory of Mr. Justice Story. They are daily and hourly constrained to acknowledge the obligations under which he has placed them, by the prodigal liberality with which he has everywhere dispensed the inexhaustible treasure of his great intellect; and it is impossible for those of us who are called to minister at the altar of justice, within the range of federal jurisdiction, adequately to express the gratitude we must ever feel for the benefits which his matchless assiduity through a long life, has conferred on every branch of legal science. It is a source of pride to us as Americans, to know that his opinions are cited as authority before the highest common-law tribunals of England. He has long since, in admiralty law, taken his place with Stowell, Tenterden and Robinson, who have shed so much light upon this particular branch of jurisprudence. As a chancellor, he will descend to posterity in the 'glorious company' of a Loughborough, an Eldon, a Cottenham, a Brougham, and a Lyndhurst—eminent among all, inferior to none. While we express the solemn conviction that his place cannot soon be supplied, even from our widely extended country, rich as it may be, and as it undoubtedly is in intellectual greatness and legal learning, let us hope that those who are called to minister at the altars of justice, while they cannot expect to equal him in his cometlike velocity, will strive at least to imbibe his wisdom and follow in the luminous 'track of his fiery car.' While, however, we award honors so justly due to the memory of this distinguished jurist, we should beware lest our regret for his sudden loss

should betray us into unjust comparisons; and I trust it will not be deemed inconsistent with the occasion, but on the contrary as a simple act of justice, if I express my dissent from the opinion of one<sup>1</sup> who has written an eloquent and, I think, except in one important particular, a just eulogium on the life and services of him whom we now honor. That opinion elevates the judicial character of Mr. Justice Story above that of the late venerable Chief Justice Marshall. They were, we know, for many years associates on the bench of the supreme court of the United States, and I think it may be safely asserted that the latter was universally acknowledged to be without an equal in this country. The industry and research of the former have long been proverbial, and so far as relates to these attributes, so essential to a magistrate, he doubtless excelled his illustrious and venerable friend. But in the development of great principles, in a lucid and systematic arrangement of an argument by which error is most clearly exposed or truth most easily discerned, in all the qualities which distinguish the sound logician, the latter still stands pre-eminent among the great legal names of our country. We are told by the elegant author of the *Decline and Pall of the Roman Empire*, that 'an indulgent edict of the younger Theodosius excused the judge from the labor of comparing and weighing discordant arguments of jurists, who, in the age of the Antonines disclaimed the authority of a master and adopted from every system the most probable doctrine. Five civilians, Caius, Papinian, Paulus, Ulpian and Modestinus, were established as the oracles of jurisprudence. A majority was decisive; but if their opinions were equally decided, a casting vote was ascribed to the superior wisdom of Papinian.' There are few American jurists who, when impeded and embarrassed by discordant authorities, do not feel irresistibly inclined to turn with the like veneration to the opinions of Marshall. Though gone from the stage of action, he is yet, and would that he could continue to be through all time, regarded as the Papinian of American constitutional law. Even in those cases in which he felt compelled to differ in opinion with a majority of his brethren of the bench, there are few I believe who, upon an attentive and impartial examination of the comparative strength of the reasons advanced for and against the propositions upon which a difference has arisen, are not forced to the conclusion that truth, justice and law have been compelled to yield to the power and authority of numbers. It is in such cases, when the opinion of the majority is cited as law, and the opinion of the minority is necessarily to be treated as error, that we are led to sympathize with the great Roman orator when, under the influence of his enthusiastic admiration of the Athenian philosopher, he exclaimed, 'Errare malo cum Platone, quam cum istis vera sentire.' Happily, however, through a long judicial career there was no material conflict of opinion between Marshall and Story. And although we are constrained to acknowledge that 'one star is greater than another star in glory,' let us be thankful that two such orbs were so long permitted to reign 'lords of the ascendant' in our American firmament. Let us be thankful that we have hitherto been guided by examples so pure and by wisdom

so unerring. Let us continue to pursue with alacrity and pride a noble profession adorned by such venerable names. Let us yield an unreluctant homage to the majesty of law, and ever feel with the eloquent Hooker, that 'her seat is the bosom of God and her voice the harmony of the world.' " Upon the conclusion of the above remarks from the judge, Isaac T. Preston, Esq., attorney-general of the state, moved that the motion made by Mr. Moise, with the accompanying remarks of the judge, be spread upon the record, and that the same be published. The court then immediately adjourned until to-morrow morning, at 10 o'clock A. M.

The following is reprinted from 3 Story, VII., (Preface:)

At a meeting of the Suffolk bar, held in the circuit court room, on the morning of the 12th of September, the day of the funeral of Mr. Justice Story, Mr. Chief Justice Shaw having taken the chair, and announced the object, of the meeting, the Honorable Daniel Webster arose and spoke nearly as follows:

"Your solemn announcement, Mr. Chief Justice, has confirmed the sad intelligence, which had already reached us, through the public channels of information, and deeply afflicted us all. Joseph Story, one of the associate justices of the supreme court of the United States, and for many years the presiding judge of this circuit, died on Wednesday evening last, at his own house in Cambridge, wanting only a few days for the completion of the sixty-sixth year of his age. This most mournful and lamentable event has called together the whole bar of Suffolk, and all connected with the courts of law, or the profession. It has brought you, Mr. Chief Justice, and your associates of the bench of the supreme court of Massachusetts, into the midst of us, and you have done us the honor, out of respect to the occasion, to consent to preside over us, while we deliberate on what is due, as well to our own afflicted and smitten feelings, as to the exalted character, and eminent distinction of the deceased judge. The occasion has drawn from his retirement, also, that venerable man, whom we all so much respect and honor, (Judge Davis,) and who was, for thirty years, the associate of the deceased, upon the same bench. It has called hither another judicial personage, now in retirement, (Judge Putnam,) but long an ornament of that bench, of which you are now the head, and whose marked good fortune it is, to have been the professional teacher of Joseph Story, and the director of his early studies. He is here, also, to whom this blow comes near,—I mean the learned judge, (Judge Sprague,) — immediately from whose side it has struck away a friend, and" a highly venerated official associate. The members of the school, to which the deceased was so much attached, and who returned that attachment with all the ingenuousness and enthusiasm of educated and ardent youthful minds, are here also, to manifest their sense of their own severe deprivation, as well as their admiration of the bright and shining professional example, which they have so loved to contemplate; an example,—let me say to them, and let me say to all,

as a solace, in this midst of their sorrows,—which death hath not touched, and which time cannot obscure.

“Mr. Chief Justice, one sentiment pervades us all. It is that of the most profound and penetrating grief, mixed, nevertheless, with an assured conviction, that the great man whom we deplore, is yet with us, and in the midst of us. He hath not wholly died. He lives in the affections of friends, and kindred, and in the high regard of the community. He lives in our remembrance of his social virtues, his warm and steady friendships, and the vivacity and richness of his conversation. He lives, and will live still more permanently, by his words of written wisdom, by the results of his vast researches and attainments, by his imperishable legal judgments, and by those juridical disquisitions, which have stamped his name, all over the civilized world, with the character of a commanding authority. *‘Vivit, enim, vivetque semper; atque etiam latius in memoria hominum et sermone versabitur, postquam ab oculis recessit.’*”

“Mr. Chief Justice, there are consolations which arise to mitigate our loss, and shed the influence of resignation over unfeigned and heartfelt sorrow. We are all penetrated with gratitude to God, that the deceased lived so long; that he did so-much for himself, his friends, the country and the world; that his lamp went out, at last, without, unsteadiness or flickering. He continued to exercise every power of his mind, without dimness or obscurity, and every affection of his heart, with no abatement of energy or warmth, till death drew an impenetrable veil between us and him. Indeed, he seems to us now, as in truth he is, not extinguished,

or ceasing to “be, but only withdrawn; as the clear sun goes down at its setting, not darkened, but only no longer seen. This calamity, Mr. Chief Justice, is not confined to the bar, or the courts, of this commonwealth. It will be felt by every bar, throughout the land, by every court, and indeed by every intelligent and well-informed man, in or out of the profession. It will be felt still more widely, for his reputation had a still wider range. In the high court of parliament, in every tribunal in “Westminster Hall, in the judicatories of Paris and Berlin, Stockholm and St. Petersburg, in the learned Universities of Germany, Italy, and Spain, by every eminent jurist in the civilized world, it will be acknowledged, that a great luminary has fallen from the firmament of public jurisprudence. “ Sir, there is no purer pride of country, than that in which we may indulge, when we see America paying back the great debt of civilization, learning, and science to Europe. In this high return of light for light, and mind for mind, in this august reckoning and accounting between the intellects of nations, Joseph Story was destined by Providence to act, and did act, an important part. Acknowledging, as we all acknowledge, our obligations to the original sources of English law, as well as of civil liberty, we have seen, in our generation, copious and salutary streams turning and running backward, replenishing their original fountains, and giving a fresher and a brighter green to the fields of English jurisprudence. By a sort of reversed hereditary transmission, the mother, without envy or humiliation, acknowledges that she has received a valuable and cherished inheritance from the daughter. English justice admits, with frankness and candor, and with no feeling but that of respect and admiration, that he, whose voice we have so recently heard within these walls, but shall now hear no more, was of all men who have yet appeared, most fitted by the comprehensiveness of his mind, and the vast extent and accuracy of his attainments, to compare the codes of nations, to trace their differences to difference of origin, climate, or religious or political institutions, and to exhibit, nevertheless, their concurrence in those great principles, upon which the system of human civilization rests.

“Justice, sir, is the great interest of man on earth. It is the ligament, which holds civilized beings, and civilized nations together. “Wherever her temple stands, and so long as it is duly honored, there is a foundation for social security, general happiness, and the improvement and progress of our race. And whoever labors on this edifice, with usefulness and distinction, whoever clears its foundations, strengthens its pillars, adorns its entablatures, or contributes to raise its august dome still higher in the skies, connects himself, in name, and fame, and character, with that which is and must be as durable as the frame of human society. All know, Mr. Chief Justice, the pure love of country, which animated the deceased, and the zeal, as well as the talent, with which he explained and defended her institutions. His work on the constitution of the United States, is one of his most eminently successful labors. But all his writings, and all his judgments, all his opinions, and the whole influence of his character, public and private, leaned strongly and always, to the



support of sound principles, to the restraint of illegal power, and to the discouragement and rebuke of licentious and disorganizing sentiments. 'Ad rempublicam firmandam, et ad stabiliendas vires, et sanandum populum, omnis ejus pergebat institutio.' But this is not the occasion, sir, nor is it for me to consider and discuss at length, the character and merits of Mr. Justice Story, as a writer or a judge. The performance of that duty, with which this bar will, no doubt, charge itself, must be deferred to another opportunity, and will be committed to abler hands. But, in the homage paid to his memory, one part may come with peculiar propriety and emphasis from ourselves. We have known him in private life. We have seen him descend from the bench, and mingle in our friendly circles. We have known his manner of life, from his youth up. We can bear witness to the strict uprightness and purity of his character; his simplicity, and unostentatious habits; the ease and affability of his intercourse; his remarkable vivacity, amidst severe labors, the cheerful and animating tones of his conversation, and his fast fidelity to friends. Some of us, also, can testify to his large and liberal charities, not ostentatious or casual, but systematic, and silent, — dispensed almost without showing the hand, and falling and distilling comfort and happiness, like the dews of heaven. But we can testify, also, that in all his pursuits and employments in all his recreations, in all his commerce with the world, and in his intercourse with the circle of his friends, the predominance of his judicial character was manifest. He never forgot the ermine which he wore. The judge, the judge, the useful and distinguished judge, was the great picture which he kept constantly before his eyes, and to a resemblance to which all his efforts, all his thoughts, all his life, were devoted. We may go the world over, without finding a man who shall present a more striking realization of the beautiful conception of D'Aguessau, 'C'est vain que l'on cherche, à distinguer en lui la personne privée et la personne publique; un même esprit les anime, un même objet les réunit; l'homme, le père de famille, le citoyen, tout est en lui consacré à lagloire du Magistrat.'

"Mr. Chief Justice, one may live as a conqueror, or a magistrate; but he must die as a man. The bed of death brings every human being to his pure individuality; to the intense contemplation of that deepest and most solemn of all relations, the relation between the creature and his Creator. Here it is, that fame and renown cannot assist us; that all external things must fail to aid us; that even friends, affection, and human love and devotedness, cannot succor us. This relation, the true foundation of all duty, a relation perceived and felt by conscience, and confirmed by revelation, our illustrious friend, now deceased, always acknowledged. He revered the scriptures of truth, honored the pure morality which they teach, and seized hold on the hopes of future life, which they impart. He saw enough in nature, in himself, and in all that can be known of things seen, to feel assured that there is a Supreme Power, without whose Providence not a sparrow falleth to the ground. To this gracious Being he trusted himself, for time and for eternity; and the last

words of his lips, ever heard by mortal ears, were a fervent supplication to his Maker to take him to Himself.”

The following resolutions, drawn up by George S. Hillard, Esq., and Charles Sumner, Esq., were then submitted to the meeting by Mr. Webster:

“Resolved, that the members of the Suffolk bar have learned with deep regret the death of the Honorable Joseph Story, one of the justices of the supreme court of the United States, and Dane Professor of Law in Harvard University.

“Resolved, that we acknowledge with the liveliest gratitude, the vast debt which we and our whole country owe to his labors and services as a judge. He was elevated to the bench in early manhood, and his judicial life was prolonged to a period almost unexampled in the annals of the common law. The wisdom of the selection was immediately indicated, by the distinguished ability which he displayed, and each succeeding year has added to the splendor and extent of his judicial fame. He moved with familiar steps over every province and department of jurisprudence. All branches of the law have been illustrated and enlarged by his learning, acuteness, and sagacity, and of some he has been the creator. His immortal judgments contain copious stores of ripe and sound learning, which will be of inestimable value in all future times, alike to the judge, the practitioner, and the student. We, too, who have had such ample opportunities of witnessing his judicial presence, can give our emphatic tribute of admiration to the gentle dignity with which he administered the law, to his untiring industry, his firm impartiality, his uniform courtesy, and recognition of the rights of all who approached him, his quickness and tact in the dispatch of business, the readiness with which he applied his

vast learning, and his humanity in the treatment of those towards whom he was called upon to direct the powers and frowns of the law.

“Resolved, that in regarding the deceased as an author, jurisprudence mourns one of her greatest sons—one of the greatest not only among those of his own age, but in the long succession of ages, whose fame has become a familiar word in all lands, where the law is taught as a science; whose works have been translated and commented on in several of the classical languages of the European continent; and have been revered as authorities throughout the civilized world. It was his rare lot while yet alive, to receive, as from a distant posterity, the tribute of foreign nations to his exalted merit as a jurist.

“Resolved, that we mourn his loss as a teacher of jurisprudence, who brought to the important duties of the professor’s chair the most exuberant learning, the most unwearyed patience, a native delight in the great subjects which he expounded, a copious and persuasive eloquence, and a contagious enthusiasm, which filled his pupils with love for the law, and for the master who taught it so well; who illumined all his teachings by the loftiest morality, and never failed to show that whosoever aspired to the fame of a great lawyer must be also a good man.

“Resolved, that we recall with gratitude and admiration, his character as a man and a member of society. We have seen and felt the daily beauty of his life. We honor his memory for his domestic virtues, his warm affections and generous temper, the purity, elevation, and simplicity of his life and conversation, and the spontaneous sympathy which gave so cordial a charm to his looks, his tones, and his greetings. The approach of age never chilled the impulses of his heart, nor deadened his interest in life. We respect, too, his activity of mind, the literary attainments which his systematic industry enabled him to acquire, and the unaffected conscientiousness which made him so ready to assume and so prompt to discharge the common duties of life.

“Resolved, that the death of one so great as a judge, as an author, as a teacher, and so good as a man, is a loss which is irreparable to the bar, to the country, and to mankind.

“Resolved, that a committee of twelve be appointed by the chair, to consider and determine the proper tribute of respect to the deceased, and to make the necessary arrangements for carrying the same into execution.

“Resolved, that the bar tender their heartfelt sympathy to the family of the deceased, and request permission to join in the funeral ceremonies.

“Resolved, that the president of this meeting be requested to communicate a copy of these resolutions to the family of the deceased; and the attorney of the United States be requested to communicate the same to the circuit court of the United States, over which the deceased has so long presided, and ask to have them entered on the records of the court.”

The resolutions were adopted, and the chair appointed as the committee provided for in the seventh resolution, Judge Davis, Hon. Jeremiah Mason, Judge Putnam, Judge Jackson, Benjamin Rand, Judge Sprague, Charles G. Loring, Franklin Dexter, B. R. Curtis, Judge Warren, Charles Sumner, and Robert Rantoul, Jr. Mr. Jeremiah Mason introduced the following resolution, with a few appropriate remarks:

“Resolved, that Mr. Webster be requested to pronounce a discourse on the life and judicial character of the late Mr. Justice Story, at such time and place as shall be designated by the committee of the bar.”

Mr. Webster has not fulfilled this office.

At subsequent meetings of the bar, called on the opening of the circuit court in the other circuits over which Mr. Justice Story had presided, and also upon the opening of the supreme court of the United States at the succeeding term, other resolutions were passed, and addresses made, expressive of the deepest sense entertained by the bar and bench of the great loss which jurisprudence had sustained in his death. But, however grateful the publication of these would be to the feelings of the reporter, he feels constrained to omit them, for reasons wholly apart from their merit and his own wishes.

TANEY, ROGER BROOKE.

[For brief biographical notice, see 30 Fed. Cas. 1397.]

The following proceedings of the bench and bar at the time of his death are reprinted from 2 Cliff. 609:

At the opening of the circuit court of the United States for the first circuit, holden at Boston, on the term day, Saturday, the 15th of October, A. D. 1864, Judge Clifford, stating that he understood that the members of the bar desired to take some notice of the death of the late Chief Justice Taney, proceeded for that purpose, without transacting other business, to adjourn the court to Monday, the 17th of October, A. D. 1864, at twelve o'clock, M. At the opening of the court on Monday, the 17th of October, A. D. 1864, Richard H. Dana, Jr., Esq., attorney of the United States, rose and addressed the court as follows:—

“May it please your honor:— The members of the bar of this court, desiring to notice in the most reverential spirit the death of the head of the judiciary of the United States, have assembled this morning and passed certain resolutions, which they have instructed me, as the law officer of the United States, to present to the court, with a request that they may be entered upon its records. Permit me, sir, also to express the hope entertained by the bar, that your honor, as the associate and friend of the late chief justice, will be pleased to reply to the address from the bar. Some of our members have had the acquaintance of Chief Justice Taney in private life. They cherish the recollection of his extreme courtesy, his simple dignity, and the fulness and charm of his instructive conversation. Those of us, who have appeared before the high tribunal over which he presided, desire

to place on public record our sense of the gratification afforded to us individually, and of the benefits conferred on the administration of public justice, by his peculiar faculty as a presiding officer, his great administrative abilities, and by the patient and unbroken attention he always gave to counsel addressing the court. And all the members of this bar, whether their knowledge of him has been official or personal, or only derived from the study of his judicial decisions, unite in acknowledging the purity of his private life, and those extraordinary intellectual qualities, working upon a fund of deep and rich legal learning, acquired by the enlightened industry of early and middle life, which have placed him in the very foremost rank of American jurists. In the presence of your honor, and of gentlemen who have known him so intimately in official and private relations, it is most becoming in me, whose acquaintance with him has been slight and recent, to do no more than to present the resolutions of the bar, and ask your honor's permission to have them entered upon the records of the court."

Mr. Dana then read the proceedings of the bar, as follows:—

"At a meeting of the members of the bar of the first circuit, held at Boston, on Saturday, the 15th of October, A. D. 1864, to take measures for giving expression to the feelings of the bar on occasion of the death of Chief Justice Taney, the meeting having been called to order by Richard H. Dana, Jr., attorney of the United States, Sidney Bartlett was appointed chairman, and Elias Merwin, secretary. On motion of Mr. Dana, a committee, consisting of Benjamin R. Curtis, Caleb Cushing, Richard H. Dana, Jr., and Sidney Bartlett, was appointed to prepare and report resolutions for the consideration of the bar. At an adjourned meeting, held Monday, the 17th of October, A. D. 1864, the following resolutions, reported

by Benjamin R. Curtis, in behalf of the committee, were unanimously adopted, namely:—

“ Resolved, that the members of this bar render the tribute of their admiration and reverence for the pre-eminent abilities, profound learning, incorruptible integrity, and signal private virtues exhibited in the long and illustrious judicial career of the late lamented Chief Justice Taney.

“ Resolved, that the attorney of the United States be requested to communicate these proceedings to the court, and ask to have them entered on the records of the court.

“Sidney Bartlett, Chairman.

“Elias Merwin, Secretary.”

Mr. B. R. Curtis then addressed the court:—

“ May it please the court: I have been requested to second the resolutions which Mr. Attorney has presented. I suppose the reason for this requests, that for six years I was in such official connection with the late chief justice as enabled me to know him better than the other members of this bar. My intimate association with him began in the autumn of 1851. He was then seventy-three years old; a period of life when, the Scripture admonishes us, and the experience of mankind proves, it is best for most men to seek that repose which belongs to old age. But it was not best for him. I observe that it has been recently said, by one who had known him upwards of forty years, that during all those years there had never been a time when his death might not reasonably have been anticipated within the next six months. Such was the impression produced on me, when I first knew him. His tall, thin form, not much bent with the weight of years, but exhibiting in his carriage and motions great muscular weakness, the apparent feebleness of his vital powers, the constant and rigid care necessary to guard what little health he had, strongly impressed casual observers with the belief that the remainder of his days must be short. But a more intimate acquaintance soon produced the conviction that his was no ordinary case, because he was no ordinary man. An accurate knowledge of his own physical condition and its necessities: an unyielding will, which, while it conformed everything to those necessities, braced and vivified the springs of life; a temper which long discipline had made calm and cheerful; and the consciousness that he occupied and continued usefully to fill a great and difficult office, whose duties were congenial to him, gave assurance, which the event has justified, that his life would be prolonged much beyond the allotted years of man. In respect to his mental powers, there was not then nor at any time while I knew him intimately, any infirmity or failure whatever. I believe the memory is that faculty which first feels the stiffness of old age. His memory was and continued to be as alert and true, as that of any man I ever knew. In consultation with his brethren he could, and habitually did, state the facts of a voluminous and complicated case, with every important detail of names and dates, with extraordinary accuracy, and I may add with extraordinary clearness and skill. And his recollection of principles of law and of the decisions of the

court over which he presided was as ready as his memory of facts. He had none of the querulousness which too often accompanies old age. There can be no doubt that his was a vehement and passionate nature; but he had subdued it. I have seen him sorely tried, when the only observable effects of the trial were silence and a flushed cheek. So long as he lived, he preserved that quietness of temper and that consideration for the feelings and wishes of others which were as far as possible removed from weak and selfish querulousness. And I believe it may truly be said, that though the increasing burden of years had somewhat diminished his bodily strength, yet down to the close of the last term of the supreme court, his presence was felt to be as important as at any period of his life. I have been long enough at the bar to remember Mr. Taney's appointment; and I believe it was then the general impression, in this part of the country, that he was neither a learned nor a profound lawyer. This was certainly a mistake. His mind was thoroughly imbued with the rules of the common law and of equity law; and, whatever may have been true at the time of his appointment, when I first knew him, he was master of all that peculiar jurisprudence which it is the special province of the courts of the United States to administer and apply. His skill in applying it was of the highest order. His power of subtle analysis exceeded that of any man I ever knew; a power not without its dangers to a judge as well as to a lawyer; but in his case, it was balanced and checked by excellent common sense and by great experience in practical business, both public and private. His physical infirmities disqualified him from making those learned researches, with the results of which other great judges have illustrated and strengthened their written judgments; but it can be truly said of him that he rarely felt the need of them. The same cause prevented him from writing so large a proportion of the opinions of the court as his eminent predecessor; and it has seemed to me probable, that for this reason his real importance in the court may not have been fully appreciated, even by the bar of his own time. For it is certainly true, and I am happy to be able to bear direct testimony to it, that the surpassing ability of the chief justice, and all his great qualities of character and mind, were more fully and constantly exhibited in the consultation-room, while presiding over and assisting the deliberations of his brethren, than the public knew, or can ever justly appreciate. There, his dignity, his love of order, his gentleness, his caution, his accuracy, his discrimination, were of incalculable importance. The real intrinsic character of the tribunal was greatly influenced by them, and always for the better. How he presided over the public sessions of the court some who hear me know. The blandness of his manner, the promptness, precision, and firmness which made every word he said weighty, and made very few words necessary, and the unflinching attention which he fixed on every one who addressed the court, will be remembered by all. But all may not know that he had some other attainments and qualities important to the prompt, orderly, and safe despatch of business. In the time of his predecessor the practice of the court is understood to have been somewhat loosely

administered. The amount of business in the court was then comparatively so small, that this occasioned no real detriment, probably no considerable Inconvenience. But when the docket became crowded with causes, and heavy arrears were accumulated, it would have been quite otherwise. The chief justice made himself entirely familiar with the rules of practice of the court and with the circumstances out of which they had arisen. He had a natural aptitude to understand, and, so far as was needed, to reform the system. It was almost a necessity of his character to have it practically complete. It was a necessity of his character to administer it with unyielding firmness. I have not looked back to the reports to verify the fact, but I have no doubt it may be found there, that even when so infirm that he could not write other opinions, he uniformly wrote the opinions of the court upon new points of its practice. He had no more than a just estimate of their importance. The business of the supreme court came thither from nearly the whole of a continent. It arose out of many systems of laws, differing from each other in important particulars. It was conducted by counsel who travelled long distances to attend the court. It included the most diverse cases, tried in the lower courts in many different modes of procedure. Some according to the course of the common law; some under the pleadings and practice of the courts of chancery in England; some under forms borrowed from the French law; many under special laws of the United States framed for the execution of treaties; and many more so anomalous that it would not be easy to reduce them to any classification. And the tribunal itself, though it was absolutely supreme, within the limits of its powers, was bounded and circumscribed in its jurisdiction by the constitution and by acts of congress, which it was necessary constantly to regard. Let it be remembered



also, for just now we may be in some danger of forgetting it, that questions of jurisdiction were questions of power as between the United States and the several states. The practice of the court therefore involved, not merely the orderly and convenient conduct of this vastly diversified business, drawn from a territory so vast, but questions of constitutional law, running deep into the framework of our complicated political system. Upon this entire subject the chief justice was vigilant, steady, and thoroughly informed. Doubtless it would be the tendency of most second-rate minds, and of not a few first-rate minds, to press such a jurisdiction out to its extremest limits, and occasionally beyond them; while for timid men, or for those who might come to that bench with formed prejudices, the opposite danger would be imminent. Perhaps I may be permitted to say, that though on the only important occasions on which I had the misfortune to differ with the chief justice on such points, I thought he and they who agreed with him carried the powers of the court too far, yet, speaking for myself, I am quite sure he fell into neither of these extremes. The great powers intrusted to the court by the constitution and laws of his country he steadily and firmly upheld and administered; and, so far as I know, he showed no disposition to exceed them.

“I have already adverted to the fact that his physical infirmities rendered it difficult for him to write a large proportion of the opinions of the court. But my own impression is that this was not the only reason why he was thus abstinent. He was as absolutely free from the slightest trace of vanity and self-conceit as any man I ever knew. He was aware that many of his associates were ambitious of doing this conspicuous part of their joint labor. The preservation of the harmony of the members of the court, and of their good-will to himself, was always in his mind. And I have not the least doubt that these considerations often influenced him to request others to prepare opinions, which he could and otherwise would have written. As it was, he has recorded many which are important, some of which are very important. This does not seem to me to be the occasion to specify, still less to criticise them. They are all characterized by that purity of style and clearness of thought which marked whatever he wrote or spoke; and some of them must always be known and recurred to as masterly discussions of their subjects. It is one of the favors which the Providence of God has bestowed on our once happy country, that for the period of sixty-three years this great office has been filled by only two persons, each of whom has retained, to extreme old age, his great and useful qualities and powers. The stability, uniformity, and completeness of our national jurisprudence are in no small degree attributable to this fact. The last of them has now gone. God grant that there may be found a successor true to the constitution, able to expound and willing to apply it to the portentous questions which the passions of men have made.”

Caleb Cushing, Esq., then addressed the court as follows:—

“May it please your honor:—I, also, have been placed in official and personal relations with the late Chief Justice Taney, which although not so close as those of Mr. Curtis, his associate on the bench, yet sufficient to render it an act of public duty on my part, as well as of individual respect, to address the court on this occasion, and to manifest in imperfect words my profound reverence of the person and the memory of the venerable and venerated chief justice. I do this, I undertake to speak of his life and character, with something of the same emotion as if that great magistrate, in all the gravity of his rank and station, were now before me in corporal presence on the bench. He had presided over the majesty of the supreme court during the long period of almost a complete historical generation of the human race, so that for us of this day he had become the living voice of the law,—“reipublicæ lex loquens.’ He was one of those men who possess such tenacity of vitality as half to suggest that the human body may sometimes endure to extreme old age by the mere force of a great mind within it, as if the will had power to withstand physical decay, and repel the attacks of death. He had inducted into office nine presidents of the United States; and as he stood on that historic eastern front of the capitol, the republic’s ‘giant steps,’ in the lofty dignity of his great form and office, year after year witnessing and assisting at the rise and fall of parties, of administrations, of dynasties, all else seemed to be transitory as day and night, evanescent as dream-spectres, whilst he and it were stable and monumental alone in this government. Take him for all in all, it is not too much to say that he worthily filled the high place, which Jay and Ellsworth and Marshall had already rendered illustrious, exhibiting in his life, like them, that supreme type of nobleness, which no hereditary charters of greatness can bestow, but which consists in the unmistakable impress of genius stamped upon his human work by the master-hand of God. Compared with them, his intellectual character had more of unity and simplicity, because it was more exclusively juridical; as he never entered congress, and as no part of his life was occupied with political debate or agitation; and he exercised functions other than legal only during the brief period, that, accidentally as it were, and not from chosen vocation, he filled the office of secretary of the treasury. With this exception, and with some further exception as a member of the legislature of his state, his long life was passed either at the bar of the state of Maryland or of the United States, or on the bench of the supreme court.

“His professional career was nearly contemporaneous with the judicial career of Chief Justice Marshall, to whose political school he belonged; and as Marshall and he together held the office of chief justice for more than sixty-three years, Marshall upwards of thirty-four years, and Taney upwards of twenty-eight years, they together, and their learned associates, may be said to have built up the great construction of our federal jurisprudence, of which the foundations only were laid in the time of Jay and Ellsworth. As a member of the bar and as attorney-general of Maryland, and as a member of the bar and

attorney-general of the United States, he prepared himself, as your honor has since done, for the discharge of the higher and larger duties of the bench. His opinions, therefore, as they appear in the six last volumes of Peters, in the twenty-four volumes of Howard, and in the three volumes of Black, compose the great records of his judicial life; and they constitute a monument of usefulness, and a title of fame deserving to be placed on a level at least with the opinions of any of the most renowned magistrates of France, of England, or of the United States. As matter, and as reasoning, they are distinguished by completeness of learning, by comprehensiveness of grasp, and perspicacity of thought, by logical precision, clearness and perfection of argument, and by conclusions which command our respect, and not seldom our assent, even when contrary to those of the majority of the court. As rhetorical style, they are of unsurpassed excellence, and perfect models of judicial composition. The diction is pure and chaste, without solecisms of word or grammar; the sentences are well constructed; the thoughts are systematically arranged; the propositions are symmetrical, with their conditions or qualifications, not patched on rudely, or loosely scattered about, but incorporated into the sentence or paragraph; and the whole show signs of the *limæ* labor of a skilful hand and well-trained intellect. In illustration of all these qualities, we may point to his opinion in the case of *The Genessee Chief*, which reversed the law of the court, as laid down by Marshall, on the question of admiralty jurisdiction in the navigable fresh waters of the United States; his dissenting opinion in *Smith v. Turner*, and *Norris v. Boston*, commonly called the 'Passenger Cases;' and his opinions in the case of *Luther v. Borden*, and the case of *Ableman v. Booth*.

"His deportment towards the bar was uniformly attentive, courteous, and kind, self-respecting, and, therefore, respectful; which was the

more important, not only because he, of course, spoke for the court in its official communications with the bar, but because he generally pronounced the law on all questions of the practice of the court. Of the inner qualities of the judicial character of the chief justice, as observed by his associates on the bench, who alone could see and appreciate those qualities, Mr. Curtis has spoken in terms of cordial praise befitting himself and the subject; and your honor cannot fail to bear similar testimony to the exalted virtues of a cherished friend and respected chief. I speak of the private character of the chief justice only to say that it was such as became his public life; tender and affectionate in domestic relations, courteous with a sort of gentle stateliness of courtesy in social intercourse, dignified and yet of unaffected simplicity in all things, so that in his presence one felt the sense of his greatness, not oppressively but pleasurably, as a force that warmed and cheered, while it also attracted and elevated all within the scope of its influence. You forgot, then, the great and lofty magistrate, and saw only the high-toned gentleman, the wise and good man, on whose ordinary life the weight of conscious power rested as gracefully as the robes of office which invested him on the bench. May it please your honor, such, after twenty-eight years of personal observation and knowledge, are my impressions of the judicial career and public and private character of Chief Justice Taney. And permit me now in conclusion to touch, and but to touch, a class of considerations, which are in all men's minds, and of which not to speak at all might be taken to imply that nothing can be appropriately spoken. We live in a country of republican institutions, where debate, oral and written, is free even to licentiousness; where political parties or factions occupy the field of public affairs; and where all conspicuous persons are subject alike to unmeasured praise or unmeasured blame according to the prevalent passions of the hour. If, as Lord Palmerston once said, the agitations of opinion are the consumers of life, so they are also the creators of life, in all elective governments. They are the drawbacks on the blessing of liberty, they are the price at which greatness is purchased. None, therefore, traverse the troubled sea of political affairs without being tossed or buffeted by the waves or winds of party opinion.

“Thus it happened to Taney: but so also it happened to Jay, to Ellsworth, and to Marshall. Each of them passed from political life to the bench. Nay, more, Jay held the appointment of envoy extraordinary to Great Britain, and Ellsworth that to France, each while continuing for a while to be chief justice; and Marshall exercised at the same time the functions of secretary of state, and of chief justice. Be sure that each of these great men, either before, or after, or during his tenure of the chief justiceship, performed some political act not less unacceptable to adversary parties than any performed by Taney while secretary of the treasury. Be sure, also, that if it were worth one's while, on a solemn occasion like this, to deal seriously with any of these futilities of bygone controversy, it would be easy for me to cite opinions of Marshall, to say nothing of Jay and Ellsworth, which

occasioned at the time not less of party sensibility than any one of Taney's. But enough of this. If we refuse to be just even to the great men of our country while they are living, we can afford to be generous to them when they are dead, and when they cease to stand in the pathway of our convictions, our interests, and our ambitions. When their human forms no longer move and speak and act, but come to be fixed and silent on the canvas of history, when the mortal man has put on immortality, and he but appears to us in memory like one of the disembodied shadows of statesmen and Heroes in the divine visions of Dante, then, if living he were truly great, he looms up the more grandly in death, his proportions magnified in the haze of the distance, the faulty points shaded over and filled up, but the mighty outlines imaged to the eye with tenfold distinctness and vividness of perception. Thus, in my judgment, will the world see Taney hereafter, as it now does Jay and Ellsworth and Marshall. And he, like them, so long as the memory of present time endures, will stand secure on the pedestal of the ages, statuesque in his ermined dignity, colossal in his intellectual lineaments, to be admired and honored,—and may we not hope to be emulated?—as one of the greatest among the great men of America.”

Charles L. Woodbury, Esq., then addressed the court as follows:—

“May it please your honor:—The eulogy upon the intellectual ability of the late chief justice I may well leave to abler hands than mine, to the leaders of this bar, whose discrimination and experience so well fit them to the duty. I have risen simply as one who probably has known the late chief justice longer than any other member of this bar, to offer the tribute of my respect. In my youth the residence of my father was for many years in close proximity to his, and in the daily intercourse of families it was my privilege to see him frequently in his domestic circle. Afterwards, when called to the bar, I had occasions in the supreme court to feel his personal kindness, and to observe that it was extended considerately to all the younger members of the bar. As a student and young lawyer in that section, I always found the local fame of Mr. Taney as the first lawyer of Maryland, since the palmiest days of Luther Martin, an axiom of belief. The late chief justice was not merely the calm, dignified, and untiringly laborious cabinet minister and judge as all saw him. That placid exterior was not the result of apathy, nor did it denote an emotionless nature. Within the depths of his character there was a great and stormy energy; within his heart there was a depth and power of passion that stirred and woke his intellectual nature to the highest efforts of his genius. He knew how to govern himself. Like General Washington, his entire self-control, and that perfect self-command to which his iron will had subjected his whole physical nature, gave him that loftiest of moral dignity, inspiring awe as well as admiration at his equitable and emotionless conduct. He was a chief. Had he been a soldier he would have been a hero. For forty years that great man has occupied most distinguished positions in the state, with a personal bearing as unruffled as if no storm could sweep the surface. And yet amid all this native strength of character and

powerful self-control, his domestic virtues were most fully developed and of the kindest nature.

“Mr. Taney accepted his judicial position as an end; and it is, I think, safe to say that he had no political ambition. His highest eulogy, and the one most befitting the lofty station that he filled, was that in all his official and private intercourse his conduct was always becoming the high-toned gentleman, and believing Christian, which he professed himself to be before the world. Heaven grant that in the future our country may have other chief justices as great and good as him.”

His honor Judge Clifford then spoke as follows:—

“The court cordially concurs with the members of the bar in their testimony of respect to the memory of Chief Justice Taney, and will cheerfully, but with heartfelt sorrow, comply with their request to place the resolutions they have adopted upon the records of the court. Death has removed from the high sphere of his duties the venerable chief justice of the supreme court of the United States, and it is eminently fit and proper that the members of this bar should pause in the midst of their usual avocations and give public expression to their sense of the great loss they have sustained, and to the profound respect and veneration they entertain for the exalted private virtues and distinguished public services of the great magistrate, whose earthly career is now closed forever. Rest assured that the court fully approves the resolutions you have adopted, and will heartily unite with you in responding to the sentiments which they contain. Such a manifestation of the sense of the great loss which has been sustained in his death, not only by the bench and

the bar, but by the whole people of the United States, is no more than what is befitting this occasion, and entirely accords with my own views and feelings upon the subject. Having enjoyed his confidence for more than a quarter of a century, and for six years last past been associated with him in the bench of the supreme court, I should do injustice to my own feelings if I omitted to say that none can fully appreciate the extent of the loss which the surviving members of the supreme court have sustained, except those who have known him intimately, and often met him at the private consultations and conferences of the court. All such must forever feel that the whole country has peculiar and lasting cause to mourn his loss as a great and good man, and as a learned, wise, and just magistrate. Unreal greatness of every kind always diminishes as you approach it, but true judicial greatness shines even brighter in the conference-room than in the bench or in the forum of public discussion. Those who have often met him in those weekly conferences best know the great value of his public services, because the best opportunities were afforded there to witness his unerring love of justice, the exhibitions of his profound experience, and the clearness, strength, and comprehension of the logical resources of his mind. Justice requires me to say that, in his hands, the most complicated causes were made plain, and the weightiest and most difficult questions became of ready and easy solution, and yet he was as willing to concede to his associates the right of independent judgment as to exercise it himself; and in cases of real doubt and difference of opinion was as prompt as any of them to modify or even yield his first impressions. Extended remarks upon his recorded judgments are unnecessary, as that duty has been well performed at the bar. Undoubtedly they constitute the great legacy he has left to his country, and it does not require the gift of prophecy to foretell that they will have the effect to preserve his memory in grateful remembrance as long as the constitution of the United States, and the institutions of free government which it ordains, shall endure. Suffice it to say upon this subject, that, in my judgment, the opinions delivered by the chief justice during the long period he presided in the supreme court of the United States, are unsurpassed as clear, logical, and correct expositions of law, if due regard be had to their number, to the magnitude of the controversies, and the scope and variety of the questions which the controversies involved.

“Chief Justice Taney was a native of Maryland, and was born on the 17th of March, 1777, in Calvert county, in that state. His ancestors were among the earliest settlers of the state, having emigrated from England to that colony in the time of the Protector. Most of them were Catholics, and for many years they experienced the disabilities incident to their religious faith, under the intolerant legislation of the parent country. Better times, however, were approaching, and when the people of Maryland adopted their constitution, in 1776, they abolished all such distinctions, and established full equality of political privilege, irrespective of religious opinion. Subsequent to that period, the father of the subject

of these remarks was repeatedly elected to represent his native county in the lower house of the legislature, and ever after enjoyed the full benefits of religious toleration. , Influenced, perhaps, by those considerations he afterwards sent his son, Roger B. Taney, to Dickenson College, in the state of Pennsylvania, which was under the superintendence of Protestant professors. Persons who knew him well have often remarked that it was there that he learned his views of religious toleration, and it was there, also, that he completed his classical education. Choosing the law for his profession, he commenced its study at Annapolis, in 1796, the year after he graduated. As is well known, he read law with Jeremiah T. Chase, chief justice of the general court of the state, and was admitted to practice in three years after he commenced the study. When admitted to the bar he immediately returned to his native county to practise his profession, and in the autumn of the same year, when but twenty-three years of age, was elected a delegate to the general assembly of the state. Contemporaries agree that he displayed in the assembly an intrepidity of character and an uprightness of motive which secured for him the esteem and admiration of his associates, but he declined a reelection with a view of applying himself more closely to the practice of his chosen profession. Actuated by the motive of enlarging his business, he left his native county and removed to the county of Frederick, where he resided for twenty-two years. While residing there, in 1816, he was elected to the senate of the state, and served with great distinction as senator for the term of five years. Politics, however, had not sufficient charms to tempt him to abandon the favorite pursuit of his life. On the contrary, the universal testimony is, that during the period he resided there he very much increased his practice, and that it embraced the widest range of subjects and every description of civil and criminal jurisprudence, which, doubtless, had the effect to lay even more deeply than had been done in his preparatory studies, the foundations of those solid professional attainments, which so eminently fitted him for the performance of the still higher class of duties which devolved upon him in after life. Evidence is not wanting to show that his competitors at the bar, during that period, were jurists and advocates of the very highest order of talent, as will abundantly appear by a reference to the judicial reports of the state. Mention need only be made of Pinkney, Martin, Harper, and Winder, but there were a host of others of less age, just advancing into the first rank of the legal profession. Powerful as was the competition, still his practice, as has been well remarked by a distinguished writer, was constantly increasing, and in a brief time became both extensive and lucrative, 'not only in the county courts in the judicial district where he resided, but also in the court of appeals.' Considerations, growing out of the increase of his business, induced him, upon the death of Mr. Pinkney, to accept an invitation to remove to the city of Baltimore, from which came a large portion of his commercial practice. One who knew him well says that the field was too tempting to be shunned, and that he 'entered upon it in the full vigor of his faculties, with an estab-



lished reputation and with talents and attainments that fitted him to maintain it against all opposition.' After his removal to Baltimore the field of his professional practice was very much enlarged. Several of his former competitors had been removed by death, and his services were now sought, on one side or the other, in most of the controversies of great magnitude, litigated in the tribunals of the state, and he at once entered upon the more enlarged sphere of practice in the supreme court at the city of Washington, over which he has since presided for so many years. Additional labor was also devolved upon him a few years later by his acceptance of the appointment of attorney-general of the state. The appointment was made in 1827, and it appears that he continued to hold the office until June, 1831, when he resigned it upon receiving the appointment to the same office under the federal government. Power of appointment, when he was commissioned as attorney-general of the state, was vested in the governor and council, and the fact that he was known to be opposed to those functionaries when the office was tendered to him furnishes but one among many evidences which exist to show that a high estimate was placed upon his personal character and professional qualifications. Beyond doubt he was, at that period, the leading advocate at the bar of his native state. Old competitors had passed away or been left behind, and he remained without a rival; but in a few years a new and equally accomplished competitor appeared to compete for the first honors of that distinguished bar. William Wirt removed to Baltimore in 1829, still possessing all the power and eloquence which he had displayed in his earlier practice in that city, and which had characterized his brilliant efforts as attorney-general in the supreme court of the United States. Comparison

30 Fed.Cas.—85

between those distinguished advocates will not be attempted, as it is well known that 'their professional talents were as diverse as their manner at the bar and their style of elocution.' Reference to the judicial records will show that they of ten met, and it will be sufficient to say that the exact and comprehensive legal knowledge of the chief justice, together with his calm and clear logic, made him a full match for his polished and impassioned competitor, and that he came out of the contest with a reputation greatly increased, as all his contemporaries freely admit. But circumstances over which he had no control soon opened a new field for the employment of his professional talents. Difficulties in the cabinet of General Jackson, induced Mr. Berrien to resign the office of attorney-general of the United States, and in June, 1831, the president having come to the conclusion to reconstruct the cabinet, tendered Mr. Taney that office, which he accepted; and he continued to discharge its duties with unsurpassed ability and success until, at the earnest solicitation of the president, he resigned it to accept the office of secretary of the treasury. His appointment as secretary of the treasury was made in September, 1833, and on the 23d of the same month he issued the celebrated order for the removal of the deposits. By that order he gave great offence to a majority of the senate, in consequence of which his nomination was rejected, and he returned to the city of his residence to practise his profession. Whatever explanations of these events are necessary have already been given at the bar. and need not be repeated. Enjoying the confidence of the president, as he did, it was hardly to be expected that he would long remain in private life, and, accordingly, upon the resignation of Mr. Justice Duval, in January, 1835, he was nominated as an associate justice of the supreme court of the United States, but the senate refused to entertain the nomination, except to postpone it indefinitely on the last day of the session. Chief Justice Marshall died on the 6th of July, 1835, and on the 28th of December following, the president sent to the senate the name of Roger B. Taney for the office of chief justice of the supreme court, made vacant by the death of that illustrious magistrate. But the senate did not act upon the nomination until the 15th of March following, when it was confirmed by a large majority. Further comment upon his judicial opinions will not be attempted, except to say that they are invariably based on principle more than on decided cases, as may readily be seen by consulting any one of the thirty-three volumes where they are to be found. Taken as a whole they constitute an imperishable monument to his memory, which needs no further inscription to insure its transmission to future ages. Great as is his loss to the country, it is even greater to the surviving members of the court over which he so long presided, because to them it is irreparable. Irreparable, I repeat, not only on account of his great experience and profound knowledge, but also on account of his pre-eminent ability and success in presiding over the deliberations of the court. Some of the duties incident to that position are as delicate as they are important, and yet he always performed them to entire acceptance. Indeed, his whole intercourse

with his associates was characterized by such a sense of justice and impartiality, and by such an unrivaled equanimity, exemplary benignity of temper, and amenity of manners, that no one of the number ever had the slightest cause of offence. Nothing need be said of his private life, as all concede that it was eminently worthy of the exalted character he sustained in all the public stations which he filled. Attempts have been made to call in question his patriotism; but I think it my duty to say, what I sincerely believe, that the charges were as unfounded as they are now harmless to the object of their attack. Gone to the grave in the full fruition of his honors, his reputation is above the reach of any such reproach. Reverence for the constitution of the United States was a leading characteristic of his judicial life, as every one knows who was ever associated with him in the bench, and as all others may know if they will but consult his judicial opinions upon constitutional questions. He revered the constitution as the great result of the Revolution, and as having been ordained ‘to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty;’ and I have no hesitation in declaring that there is not an act of his life inconsistent with that profession. Pursuant to the request of the members of the bar it is ordered that the resolutions which have been read shall be placed upon the records of the court.”

The following is reprinted from 5 Blatchf. 552:.

The following proceedings took place in the circuit court of the United States for the northern district of New York, at the city of Albany, before Mr. Justice Nelson and Judge Hall on the 14th of October, 1864:

The Death of Chief Justice Taney.

Mr. John V. L. Pruyn addressed the court as follows:

“May it please the court: I am sure that the duty I am about to perform is one which will meet the cordial approval of your honors. I wish to announce in form, in order that a proper record of the event may be made, by your direction, on the minutes of the court, the sad news which we all heard yesterday, of the death of the chief justice of the supreme court of the United States. His feeble health for several years past, had, at his great age, rendered this event one to which his friends and the country had looked forward as likely, in the course of nature, soon to occur, and the weight of the blow has thus been somewhat lessened by the premonitions of its occurrence. Looking at the large powers vested in the supreme court of the United States—much greater under our form of government than those lodged with tribunals occupying relatively the same position in other countries — the extent and character of its jurisdiction, and the high respect in which its judgments have been held, the loss of its presiding judge is an event of very great importance in the constitutional and judicial history of our country. In this case that importance is unusually marked. The deceased chief justice had held his high office for

the long space of twenty-eight years and upwards, discharging its duties with an ability and integrity which was admitted by the whole country. During this extended period many constitutional questions of great importance were passed upon by the court, after their discussion by the most distinguished counsel in the land, and most of the vexed points which disturbed our early judicial history were disposed of. In their decision the clear and luminous mind of the chief justice appears in every page, and his opinions will hereafter be referred to, as worthy of the reputation of a court which has numbered among its judges so many illustrious names. In the few hours which have passed (and those interrupted by other cares) since I was requested to discharge the duty I am so imperfectly attempting to perform, I have only had time to bring together a few of the events in the life of the late chief justice, which may be of interest to us who survive.

“Roger Brooke Taney was born in Calvert county, Maryland, on the 17th of March, 1777, and thus was, at the time of his death, in the 88th year of his age. He graduated at Dickinson College, Pennsylvania, in the year 1795, studied law at Annapolis, was admitted to the bar in 1799, and in the same year was elected to the house of delegates in Maryland, being the youngest member of that body. He declined a re-election to this office, preferring to give his whole time and energies to his profession. In the year 1800 he removed from his native county, where he had commenced practice, to Fredericktown, where he pursued his profession most laboriously for twenty-two years, when he changed his residence to Baltimore. During this period he attained a high position at the bar;

and the Maryland Reports of that time show that he was engaged in many of the important cases which were brought before the courts of that state, meeting in argument such men as Pinkney, “Williams, Martin, and others of the eminent lawyers of that commonwealth. In some of these cases, with that firmness of purpose for which he was so distinguished, Mr. Taney stood up manfully for what he believed the right, without regard to public opinion. In no instance was this more conspicuous than in that of the Reverend Mr. Gruber, a Methodist clergyman, who had been indicted for an attempt, by his preaching at a camp-meeting, to stir up an insurrection among the slaves. By the cleverness and ability displayed by Mr. Taney on the trial, the prisoner was acquitted. For a long period (I quote from one of his biographers) ‘the Methodists of that section entertained the kindest feelings for the Roman Catholic advocate, who had successfully defended their pastor against popular excitement and judicial power.’ Mr. Taney served one term in the senate of his native state—from 1816 to 1821. In 1823 he removed to Baltimore, where he almost immediately entered upon a large practice in the federal courts. The then recent death of Mr. Pinkney, Mr. Martin, Mr. Harper, and others of the leading members of the bar, had left the space to be filled, which Mr. Taney entered upon with all that zeal, industry and ability which had already secured him a wide reputation. In 1827 he was appointed, by the governor and council, attorney general of Maryland. The estimation in which he was then held, may be inferred from the fact that he was politically opposed to the appointing power. It was during his professional career, while residing in Baltimore, that Mr. Taney and Mr. Wirt often met in professional struggles, and to the honor of the latter it should be said, that he never hesitated to speak in the highest terms of the great ability of his adversary. In June, 1831, Mr. Taney was appointed by General Jackson attorney general of the United States. Most exciting questions arose during this administration, especially those of nullification, and the recharter of the United States Bank. The attorney general stood firmly by the president in all these controversies, and, on the resignation of Mr. Duane, as secretary of the treasury, growing out of the question as to the removal of the government deposits from the Bank of the United States, Mr. Taney, in 1833, was transferred to the treasury department. His celebrated order, removing the deposits, led to the rejection of his nomination as secretary of the treasury by the senate, and, in June, 1834, he resigned. The term of about nine months during which he held this office, was, it is believed, the only time during which he was entirely withdrawn from professional life. In the early part of 1835 General Jackson nominated Mr. Taney to the senate as one of the associate justices of the supreme court, in the room of Judge Duvall, deceased. The senate did not act on the nomination, and, Chief Justice Marshall having died in the summer of 1835, the president, on the 28th of December of that year nominated Mr. Taney as chief justice, which nomination was confirmed on the 15th of March, 1836. Mr. Clay, it is said, strenuously opposed the confirmation of the nomination, but frankly admitted to

Judge Taney, years afterward, that he regretted his course, adding, with a cordial shake of the hand, that he regarded him as a worthy successor of Chief Justice Marshall. What higher praise could have been asked for? Judge Taney held the circuit court in Maryland, during the year 1836, and took his seat on the bench of the supreme court in January, 1837. From that time to the day of his death, the history of the chief justice is known to the world. The published reports of the decisions of the high tribunal over which he so ably presided, speak of and for his labors far more emphatically than anything I could say. Did time allow me, I might refer to the great learning and ability displayed in many of the opinions he pronounced, and especially of the luminous character of those which related to constitutional questions. But I must pass this by, and proceed to other topics. I will not undertake to speak at length of the professional ability and mental characteristics of the departed judge. That duty will no doubt be more ably and more appropriately performed in another place, and under circumstances which will give the occasion a national character. He was a well read and profound lawyer, strong in his convictions as to great principles, and firmly adhering to them. In the clearness and logical character of his judgments, he was not excelled by any jurist of our country. It was beautifully remarked of him, by Mr. Wirt, that he was 'the man of moonlight mind; I mean,' he said, 'the moonlight of the Arctics, where you have all the light of day without its glare.' His deportment on the bench was beyond all praise. The quiet dignity of his manner, and the ease and grace with which he presided over the deliberations of the court, can never be forgotten by those who witnessed them. And how can I speak of his conduct to the bar? Never was a judge more kind, more considerate, more patient than he. Every one who addressed him, while impressed with the presence in which he stood, still felt that he was speaking, as it were, to a friend—one who would overlook the imperfectness of his argument, and patiently weigh and consider every view presented. But the chief justice was that without which acquirements, learning, all other attainments, are of little moment—a thoroughly incorruptible, fearless and honest judge. Little did those who only saw him presiding in court, where the kindness and childlike gentleness of his manner were so apparent, know how brave a heart beat under that quiet and calm exterior. He was one of the few—alas I how few there are—who had the moral courage to do what he believed to be right, and I am firmly convinced, that rather than yield his views on any of the great questions of constitutional law which form the groundwork of our institutions, he would readily have sacrificed his life. But you, sir, [addressing Mr. Justice Nelson] who were associated with him so many years in the discharge of your high official functions, knew him so well, you so thoroughly understood his many excellent qualities both of heart and mind, his great attainments and his elevated character, that I feel that, in your presence, I ought not to say more on this subject.

“The daily beauty and simplicity of the private life of the chief justice I believe to have been almost without parallel along the great men of our country. In his conversation he was most attractive, winning and instructive, and I never left, after an interview with him, without increased regard for his virtues and character. Of his religious life I cannot venture to speak, except perhaps to say that which is known to us all, that he was one of the most prominent members of the Roman Catholic Church in this country—devoted, in the broad spirit of Christianity, to its institutions and its interests. But he comprehended all classes of men in his sympathies, and showed his faith by a life of duty, integrity and Christian devotion here, which, we reverently trust, has secured for him an eternal reward in that blessed state to which he has gone. ‘Clarum et venerabile nomen’— long may the influence of the ability, the integrity, and the pure and elevated character of the great departed judge, remain with the members of that august tribunal over which he so long and honorably presided. May it please the court, I now move that an appropriate entry of the death of Chief Justice Taney, be made by the clerk on the records of this court, and that the court do now adjourn.”

Mr. Justice Nelson responded as follows: “The death of Chief Justice Taney, from his great age, in his eighty-eighth year, and bodily infirmities, was not unexpected. For several years past he has been, physically, so feeble as to excite, constantly, the serious apprehension of his family and friends. But his mind, during all these years, and at all times, has been unimpaired. The life and public services of this venerable and eminent judge have been so long and so conspicuously before the country, that it can hardly be necessary to do more than to allude to them. He

was one of the most learned and able lawyers of the nation, while engaged in the practice of the law, and well earned and achieved the highest honors of his profession; and, in all the public offices and employments which he has filled—attorney-general of the United States, secretary of the treasury, and chief justice of the supreme court of the nation—his clear intellect and unpretending habits, both in public and private life, were always distinguished characteristics. There never was a public functionary, in this or any other country, who brought to the investigation of the great questions that came before him, political or judicial, or to the discharge of his high duties, a clearer understanding, or purer heart, or greater patience and devotion in the pursuit of right and justice. Few men possessed a more well balanced mind in the discharge of varied duties and responsibilities, and in the application of it to the business affairs of life. In his nature and temperament, there were fewer disturbing elements than ordinarily fall to the lot of humanity. His disposition was kind and generous; and his intercourse and association with his brethren and the bar were most courteous and friendly. He was always ready and willing to give them the benefit of his counsel and advice. In his death, the country has lost a public servant, a large portion of whose life has been devoted to her service—the bench and the bar, their best friend and brightest ornament. Those of us who have been long and intimately associated with him feel most deeply his loss. He was our friend and brother. Our best consolation is in the memory of his virtues and of the good deeds that filled the measure of his life.”

THOMPSON, SMITH.

[For brief biographical notice, see 30 Fed. Cas. 1398]

The following notice is reprinted from 2 Paine, (Preface:)

To Justice Thompson, however, we are chiefly indebted for the learned, clear, and satisfactory decisions which are contained in this volume. In the long list of eminent jurists whom the state of New York is proud to enroll among her sons, none, perhaps, were more conspicuous for those sterling qualities of head and heart which constitute the able and efficient judge than Smith Thompson. He possessed a mind of remarkable clearness and vigor, and powers of analysis and close reasoning of no ordinary kind. Modest in his deportment, and plain in his manners, he yet had a firmness of purpose and an independence of spirit, which, in the pursuit of truth and right, were inflexible. His opinions, so lucid and concise, and expressed in language so simple, yet so pointed, are models of judicial composition. Called to the bench of the supreme court of New York so early as 1802, and having for his official associates no less distinguished personages than James Kent, Morgan Lewis, and Ambrose Spencer, he at once took a prominent position, which he ever after, during a long judicial career, maintained. He subsequently filled the post and discharged the duties of chief justice of the state of New York; and on the 18th of March, 1823, a vacancy having occurred on the bench of the supreme court of the United States, by the lamented death of the Hon. Brockholst Livingston, one of the associate justices



and presiding judge of the circuit court in the second circuit, on the 9th of December of the same year Judge Thompson, was appointed his successor.

THRUSTON, BUCKNER.

[For brief biographical notice, see 30 Fed. Cas. 1398.]

Circuit Court of the District of Columbia for the County of "Washington. At a meeting of the bar and officers of the court on the 30th day of August, 1845, on motion, Richard S. Coxe, Esq., was appointed chairman and William Brent secretary.

On motion of Joseph H. Bradley, Esq., the following resolutions were unanimously adopted: "Resolved, that this meeting have heard with deep and sincere emotion of the death of the Hon. Buckner Thruston, for many years a judge of the circuit court of the District of Columbia. Resolved, that we lament the death of an individual with whom we have been long associated in the administration of justice, and in the intercourse of society, distinguished by his elegant attainments as a scholar, for his extensive erudition, for his integrity on the bench, and his accomplishments as a gentleman. Resolved, that we sincerely sympathize with his afflicted family in the death of Judge Thruston, full of years and ripe in character. Resolved, that the district attorney be requested to submit these proceedings to the circuit court, and to ask the court to permit them to be entered on their minutes and to unite with the bar and officers of the court in paying respect to the memory of the deceased; and that we will wear the usual badge-of mourning for thirty days. Resolved, that a copy of these proceedings be respectfully communicated to the family of the deceased, and be published in the several newspapers in this district."

James Hoban, Esq., district attorney, submitted the above proceedings to the court. To which the Hon. William Cranch, chief judge, made the following reply in behalf of the court: "The court has received with great sensibility information of the death of Hon. Buckner Thruston, one of the judges of this court. Having been long associated with him in the discharge of our judicial duties, we cannot but deeply feel the loss we have sustained. His judicial life has been prolonged beyond the usual term of human life, and has been uniformly marked with strict integrity. But this is not the time or place to pronounce his eulogy. His long and faithful services are well known and appreciated in the community and will be long remembered. The surviving judges deeply sympathize with the gentlemen of the bar officers of the court, and the afflicted family or the deceased, and will join them in the testimonials of respect proposed by the bar and the officers of the court, and will order their proceedings to be entered on the minutes of the court. The court will now adjourn. Test: Wm. Brent, Clerk."

John Buckner Thruston was born in Virginia, in 1763. He was the son of Charles Mynn Thruston, a distinguished Revolutionary officer. He emigrated in early life to Kentucky. Studied law, was admitted to the bar, and practiced his profession at Frankfort. Being possessed of superior talent he was called into public service by being appointed

United States judge for the courts of the territory of Orleans in 1805: but on his election to the senate of the United States from Kentucky, he declined the appointment of judge. He served as senator from December 2, 1805, to July 1, 1809. Although elected for six years, he resigned on being appointed by President Madison judge of the United States circuit court of the District of Columbia. This office he held until his death at "Washington, D. C, August 30, 1845, in the 83d year of his age, having-occupied the bench 36 years. He was a gentleman in every sense of the word; that is, superior attainments combined with his urbane manners in private life, made his company pleasing, instructive and procured for him general esteem.

TRIGG, CONNALLY F.

{For brief biographical notice, see 30 Fed. Cas. 1399.}.

The following proceedings of the bar are reprinted from 1 Flip, v.:

The Honorable Connally F. Trigg, United States district judge for the eastern and middle districts, of Tennessee, died at his home in Bristol, on Sunday

April 25,1880. He was born in Abingdon, Virginia, March 8,1810. Was appointed by President Lincoln to the position he held at the time of his death, July 2,1862. A meeting of the members of the Memphis bar was held, when a committee, composed of W. Y. C. Humes, M. P. Jarnagin, George Gantt. Luke W. Pinlay, and S. P. Walker, was appointed, who reported resolutions highly complimentary to the deceased. These were seconded by Mr. Jarnagin, and unanimously adopted. Henry Craft, Esq., on a subsequent day, delivered a eulogy upon the deceased, saying among other things:

“As Judge Trigg came to judicial position in stormy times, and presided in the federal courts of this state in the convulsion and in the reconstruction, it was natural and proper that these bar resolutions should direct-attention to his bearing in those troublous days. “When those who had been out in the Confederate ranks returned, they became a host of witnesses to the equanimity, the courage, and the fine intelligence which characterized his discharge of duty. It fell to his lot to be the pioneer in judicial action upon many novel and important questions growing out of the war, and out of the legislation which it engendered; and it must have been highly gratifying to him that the supreme court of the United States affirmed his rulings. Because of his action, I have often said, and the assertion is not too strong, that Tennessee owes to Judge Trigg more than to any other judge. I knew him well, and in the most intimate social relation, while these trying questions were being presented, and I can say that I never saw him when he seemed to feel the slightest perplexity, or doubt, or hesitation, as to his course. He seemed to be guided by a sort of innate sense of what was right, and to go straight forward almost without need for deliberation. I presented the application of the lawyers returning from the war, for admission to his court without taking the test oath. Some of-them were surprised that I did not consider it necessary to make elaborate argument, or to adduce a great array of authority. I told them I had become too familiar with his habit of thought and feeling to entertain a moment’s apprehension as to what he would do. His opinion “ delivered May 10, 1865] in that matter virtually covered the very ground upon which the supreme court afterwards rested a similar decision. As far as he was from the weakness of concession to the passion and prejudice of one side, he was equally far from encouragement or approval of what was done on the other. He was loyal in his whole being to the constitution and the Union, and ready and anxious to exert all his power to maintain them. He made no compromise with secession, and looked with sternest disapproval upon the effort to tear the flag in twain; but he was utterly a stranger to malice or vindictiveness toward those who upheld the Confederate cause. He earnestly desired to see their efforts thwarted, and their military power crushed but when this was done, it was not in his nature, nor in his construction of the law, to inflict punishment by confiscation of their property, nor by proceeding against them as criminals. I heard him say from the bench, in dealing with confiscation cases: ‘The informer does not commend himself to the favorable considera-

tion of this court.' I repeat that the state owes to Judge Trigg a debt of gratitude greater than to any other man who has exercised judicial functions within her boundaries.

" As I think now of Judge Trigg in the discharge of his official duty; as I recall his benignant face so finely put upon the canvas that hangs in your honor's chamber; as I remember him in social intercourse, and as my mind runs rapidly over the retrospect of the fifteen years during which he went and came among us, I recognize a guileless, straight-forward simplicity as the prominent trait of his character. To do right, to be just, to indulge the largest charity, to be alive to all human sympathy, and to administer the law as one who could be touched with the feeling of human infirmity, seemed to be so natural to him as to require no effort. Utterly devoid of affectation and egotism and selfishness, he never seemed to think that there was anything he could do other than just what he did. He claimed no credit, sought no applause, but walked calmly along his judicial path, apparently unconscious that he was exhibiting the highest qualities of our manhood. This simplicity of character was conspicuous in his steadfast adherence to the fundamental principles, and his abiding faith in the rudimental truths of jurisprudence—principles and truths with which he was very familiar. He was not a learned judge in the sense of knowing what a hundred courts had decided upon a thousand questions. He could not rattle off the names of cases and books, nor stuff an opinion with precedents and quotations; but there were great lights, older than the books and steadfast as the stars, towards which his mind turned as the needle turns to the pole. Judge Trigg lived out the allotted three-score years and ten, in the ripeness of age; in charity with all the world; without blot or stain upon his private or judicial robes; loyal to country, to friends and to family; loyal to duty and truth, he has calmly gone away. Those loved him most who knew him best. He was a good judge, a good citizen, and a good man. This is a truthful eulogy. Is it not eulogy enough?"

#### WARE, ASHUR.

[For brief biographical notice, see 30 Fed. Cas. 1400.]

The following proceedings upon his resignation and death are reprinted from 3 Ware, 320, 337:

The members of the Cumberland bar met by invitation at the United States court room in Portland, on Wednesday, the 23d day of May, 1866, to determine what expression of their esteem and respect for Judge Ware would be appropriate to the occasion of his retirement from the bench of the district court of the United States, a position which he had resigned after a judicial service of more than forty-four years. Hon. Thomas A. Deblois, Hon. George Evans, and District Attorney Geo. F. Talbot, were appointed a committee to prepare resolutions expressive of the sentiments of the bar on the occasion. At an adjourned meeting, Mr. Talbot, from this committee, presented the following resolutions, which were unanimously adopted:

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“Resolved, that the members of Cumberland bar, ask leave, on the occasion of the retirement of Judge Ware from the bench of the district court of the United States, to express their high appreciation of the important labors and studies, by which, through his long career of judicial service, the principles of maritime equity and international law have been established, and the interests of commerce have been secured and extended; and to signify their pride and satisfaction in the just eminence, which the pure style, the exhaustive learning, and the logical candor of his published opinions have gained for him among jurists throughout the world.

“Resolved, that we shall ever cherish in grateful remembrance, the patience, impartiality, and courtesy, which have marked the official conduct of Judge Ware towards the members of the bar, and the amiable frankness and dignified simplicity, which in his intercourse with us individually, have formed the basis of the friendship and veneration in which he has long been held; and that we tender to him our cordial wishes that he may find in the retirement he has chosen as the appropriate close of his protracted labors, that calm satisfaction, which the retrospect of important service to his age and to the world, faithfully performed, cannot fail to give, and that peace of mind which flows out of a pure and blameless life.”

It was then voted, that the resolutions be presented by the U. S. district attorney to Judge Ware, at the coming in of the court on Thursday, May 31st, at 11 o'clock A. M., being the last day previous to that on which his resignation was to take effect, with such remarks as the attorney

might deem appropriate. A few minutes after 11 o'clock the venerable judge came in, and taking his seat upon the bench, the court was formally opened, the area assigned for the accommodation of the bar being filled with the members of the legal profession, anxious to participate in the official leave-taking. The district attorney then came forward and read the resolutions, accompanying the presentation with the following address:

” May it please your honor: In presenting these resolutions in behalf of the Cumberland bar, I perform a task at the same time sad and grateful. It is sad to be obliged to defer to that judgment of yours which has constrained you to terminate the pleasant official relations that have so long subsisted between the court and the legal profession practicing in it, and to feel that the bench you are about to vacate, will be deprived of the confidence and veneration your character has given it in the popular heart. But it is grateful to review your long career as a judge, paralleled by no other in judicial history, and to remember how its foundation was laid in thorough classical, historical, and legal study, how its progress has been signal-marked with the lights of jurisprudence, and how it has culminated in the eminence which has crowned your prolonged labors. It is grateful, too, to know that you have arrived at that goal which fitly divides labor from repose with natural vigor so little abated, that those tastes for intellectual investigation, which have been at the same time your employment and your diversion, have not lost their relish. You took your seat upon the bench of this court very early in the independent existence of our state. Maine, by her seaboard position and the enterprise and hardihood of her people destined to become a commercial and maritime state, counts herself happy in having had you for so many years at the head of her maritime and admiralty court. The people who have been the most resolute in attempting to subdue and control the sea. have from the earliest times dictated its laws. While powerful chiefs subjected to their sway such territories of the land as they could occupy and defend with their arms, the sovereignty of the ocean was for them who were bravest in defying its dangers. While on the northern coasts of the Mediterranean, and on the south shores of the Baltic and North seas, merchants were gathering wealth, and mariners finding exciting adventures, thoughtful minds were collecting and expanding those principles of natural equity, and those customs and usages to which traffic had learned to accommodate itself, which, still for the most part unenacted, form the body of the commercial law of the world. As citizens of our state, we feel no more pride in the rank among commercial and maritime communities our merchants and ship-builders and seamen have won, than in the high repute your labors and studies have gained for you, in interpreting and developing the principles of maritime jurisprudence. It was the pious surmise of the Psalmist, that ‘ they who go down to the sea in ships, and do business in great waters, see the works of the Lord and his wonders in the deep.’ However these wonders may affect a refined and elevated spirit, it would seem as if the effect of the storms of the sea upon ordinary men was to arouse the storms of

evil passion, and that the lawlessness of the open ocean begat in them a feeling that they had sailed beyond the constraints of human law, and crossed the line that bounds the jurisdiction of conscience and of Cod. Certain it is that the sea has been the theatre of some of the darkest deeds of which human nature is capable, and its unfathomed caves hold the secrets of the bloodiest cruelties ever perpetrated by man upon his kind. The early commerce, half traffic and half plunder, though it drew civilization in its train, was scarcely above the grade of statute piracy; nor could we believe, unless compelled by history,—looking at the quiet, civil, and decent social life of the thriving communities on the new continents and islands, in the massacres, enslavements, and extortions, that accompanied their discovery and colonization. Even now that necessarily despotic system of mastery, which places the persons and lives of unarmed seamen on shipboard under the custody of one doubly-armed man, whose ferocious passions may be stimulated by intoxication, sometimes brings back as freightage from far-off seas, horrors that afflict the human heart in the recital. The ocean, that seems almost to defy its maker, the last of chaos to feel the coercion of creative order, has hitherto baffled man.—But every age it yields to his daring and inventive spirit. Long ago he found means to venture out upon its open wastes, using its currents and its very storms as propulsion for his travel and transportation. Within our time, in the steamboat, he has subjected it to forces more completely within his control, and defying its own. He is just about to span it with a line upon which his whispered messages shall make themselves heard beneath all its uproar from continent to continent. Not less remarkable than these physical achievements, by which science and skill have made the sea docile to the uses of man, are the moral agencies, which have carried the majesty and sanction of law to the loneliest waters of the most barbarous coasts. This law, written in part only in those axioms of natural equity which a large, liberal, and candid mind can read, it has been your province to explain, and to apply to the settlement of controversies, and that too, without aid from the deliberations of a jury. How justly and wisely you have done it the confidence and respect of this commercial community, whose claims you have decided, and whose property has been controlled by your decrees, is ample testimonial. The shipmaster, in the port of a foreign land, has been made to feel that the charter-party defining the due compensation for his toil and risk, the interest of the ship in its proportion of the gains of commerce, and of the merchants in profits of his venture, would be enforced against his goods and his person upon his return from however prolonged a voyage. The sailor, the proper ward of the admiralty, has found in the humane patience, with which you have listened to the recital of his wrongs, his beatings, his tyings-up, his privations of food and wages, that your guardianship was something more than a maxim. And the coaster and adventurous landsman, who have braved the storms of our own rocky coast to rescue wrecked ships, wrecked goods, and periled lives, have been encouraged by your bounty to venture again upon a like beneficence.

“We congratulate ourselves that your Reports, to be further enlarged, as we trust, by the publication of your manuscripts, will be enduring monuments of your humane feelings, your cultivated sense of justice, and your learning. I need not characterize in other terms than those used in the resolutions we have adopted, books quoted in all the admiralty courts of the world, and never but with deference and respect, and attractive to the general scholar by their perspicuous statements, their vivid style, and the cogency and conviction of their arguments. There is one obligation, however I ought to acknowledge due from counsel for the uniform fullness and appreciative fairness, with which in your opinions you state, and the candor, with which you defer to, arguments of theirs, which you found yourself compelled upon a closer analysis or a more comprehensive review to overrule. Your powers as a court have been large,—your responsibilities great. You lay them down, I apprehend, without a suspicion on the part of any man, however his fortunes may have fared at your hands, that those powers and responsibilities were ever abused, that a decision was ever rendered that did not reflect a delicate and elevated sentiment of justice, and that did not commend itself to the approbation of the public good sense. But I must not recount further the obligations this bar and this entire community are under to you for the dignity of your example, and the honor you have conferred upon this high position, you are now to vacate, lest I give offence to that modesty, and those simple tastes of yours, that would repel extravagance as instinctively as insult. Let me bid you only in an official sense an affectionate farewell, hoping that those habits of recreation and employment, you may find it more difficult to lay aside, than the dignity of your office, will continue to bring you daily to these precincts, that



will long be haunted by the attractive and venerable influence of your presence and character.”

Judge Ware was much affected by this expression of the feeling and appreciation of the bar, with which he had been so long connected, and with emotion only partially controlled, made the following response, all the bar coming forward and standing around the bench, and listening with reverent attention:—

“Gentlemen of the bar: The expression on the part of the bar practicing in this court, wholly unsought for and unexpected on my part, deserves from me and is received with the deepest gratitude. It is a source of great gratification that the course of the court during the protracted period I have had the honor to sit in it, has received the approbation of men learned in the law, who have been familiar with its practice, from whom nothing has been or could be concealed, and has called forth such an expression. In every case one party or the other must be disappointed, in almost every instance of reasonable, and in some perhaps of just expectations, especially as the jurisdiction and practice of the court were in some degree uncertain and unsettled. In admiralty the prevailing opinion of the soundest and most learned juris consults of this country is that our courts have a larger jurisdiction than the high court of admiralty in England. Of course the English decisions, to which we habitually look as a safe guide, fail. The halting practice and the imperfect reports of our own court afford but an imperfect substitute. We are, therefore, left to find our way as well as we can by looking to general principles. When these are our only guide there will be of course different opinions. It cannot be expected that there will always be an entire agreement, and the most that can be hoped for is integrity of intention, and this, I trust, has never been doubted. To err is the common frailty of humanity, and I cannot too highly value the calmness with which these errors have been received, and the tenderness with which they have been handled. The unvarying courtesy and kindness on the part of the bar which for so long a period has been uninterrupted, in full measure and beyond what would reasonably be expected, call imperiously for my grateful acknowledgments. They can never be forgotten by me, and will live as long as the pulsation of life lasts. It only remains, that with the best wishes for your happiness in this life and that which is to come, I bid you a final farewell.”

At the close of the judge's remarks the court adjourned.

Proceedings of the Cumberland Bar on the Occasion of the Death of Judge Ashur Ware, Which Occurred Sept. 10th, A. D. 1873.

The members of the Cumberland Bar Association met in the United States district court room, at 3 o'clock on the 22d of September, 1873, agreeably to a previous notice, and Hon. Nathan Webb, the vice president, in the absence of Judge Howard, the president, took the chair. M. M. Butler, Esq., on behalf of a committee appointed for that purpose at an earlier meeting, reported resolutions expressive of the sentiments of the bar,

in reference to Hon. Ashur Ware, for many years judge of the United States district court for Maine district, lately deceased, and the same were unanimously adopted. At three and one-half o'clock, the court was announced, and Judge Fox took his place upon the bench. The court having been opened, Hon. George F. Talbot arose and spoke as follows:

” May it please your honor: Since its last session, the eminent man, whose personal virtues and judicial authority this court must always honor, has laid aside the burdens and infirmities of a protracted old age, and peacefully passed on to test the mysteries of the life beyond. Judge Ware, who, for more than forty-four years, presided over the district court of the United States for the state of Maine, in the seat to which you have so worthily succeeded, died peacefully at his residence in this city, on Wednesday, the 10th of September inst., at half-past eleven in the morning, in the ninety-second year of his age.

“In announcing this event all sorrow and regret will be out of place. When a life endowed with rare physical and mental vigor, ennobled by worthy and patient labor, adorned and enriched by varied study and learning, dignified by simple and guileless manners, ends, there is no occasion to mourn or deplore. Its ending is rather the fit occasion to sum up and contemplate its excellences, and admire its rare good fortune. His fearless and adventurous spirit, long before it was weakened by the infirmities that oppressed and beclouded it, had frequently testified his satisfaction with the full measure of years allotted to him, and had come to look upon life without regret, and upon death as a problem that fascinated his curiosity and invited his experience. Those of us, who were permitted to look upon the calm face after death had composed it to the grand and beautiful expression which belonged to its maturity, who saw how, from the placid brow and composed countenance, all traces of feebleness and pain had passed away, could but think more kindly of that dread agent, which, seeming to crush all our hopes, leaves on the blank face, before it begins to decay, the gleam and promise of a better life, just as the sun, after it has set, gilds the clouds and sky with its continued light. While we accept trustfully such an omen of his fate, we find how it typifies a process of apotheosis, by which the bowed frame and the briefly clouded mind give place, in our memory and thought, to the dignified presence and clear and capacious intellect, strengthened and expanded by thought and learning, by which our revered friend will hereafter ever be remembered. A life like Judge Ware's, so happily and nobly lived, so rich in substantial, if not conspicuous benefits conferred upon society, a mind so well endowed with intellectual and moral culture, is of historic value, and deserves commemoration in a fitting biography. I know the fact, that he had been often urged to lay the proper foundation for such a work, by furnishing personal memoranda of the leading incidents of his life. Late in his old age he seems, partially, to have complied with such a request; out his life was a contemplative, rather than an active one, and, having few changes or events personal to himself to record, his unique and characteristic history, as told by himself, gives us only the processes by

which his mind was trained, the relations which he recognized as connecting himself with God and the universe, and the growth of opinions, mainly theological, which his contemplation and study had compelled him to adopt. The proprieties of this occasion will allow me only to speak briefly of the work he has done in the world, and the traits of mental and moral excellence developed in doing it. He has given this description of his dominant mental passions: I had always a love of knowledge. This I believe was innate and instinctive. It had its origin in a natural curiosity, and was wholly independent of the consequences that flowed from it.' He had a quiet contempt for the prevalent taste among his competitors in scholarship, whose efforts seemed to be stimulated by the desire to obtain honors, and who had more thirst for the reputation and rewards of learning than they had for learning itself. He says, moreover: ' My taste and inclination led me more to grave and solid studies, that improved the understanding, than to the lighter graces of polite letters. An important fact, or a principle which is a mere generalization of facts, had always more charms for me than a mere expression of happy elegance.'

"To the shaping and strengthening of his mind, metaphysical studies largely contributed; in relation to this he observes: ' Nothing contributes so much to sharpen the mind, and nothing to discover the weakness of an adverse argument on any subject, nothing to make nice distinctions and just discrimination, nothing to detect as well as practice sophistry; to comprise the whole in one word, nothing so well teaches us the use of language, whether employed to express or, as it sometimes is, to conceal our meaning, as the study of metaphysics.' But although he recognized the value of these studies as discipline, he complained that the knowledge they furnished was uncertain, and that

the modern mind, after all its efforts, had been baffled by the same uncertainties and the same limitations that had arrested the researches of the ancient philosophers two thousand years ago. So he turned to mathematics as more attractive and solid ground, and in touching their fixed and certain data, laid his hand upon the laws and methods of the creation. To quote his own language: 'If there be any merit in the essays I have written, either miscellaneous or professional, or judicial opinions, in the selection and arrangement of the thought and matter, I have been more indebted to geometry than to all other studies. I think I may safely say this, when one of the greatest men ever bred in America, great at the bar, great on the bench, and great in political movements (though this was the less seen by the public.) a man who would be, rather than seem great,—said that whatever merits his arguments at the bar might have had, they were all derived from Euclid; and juries, to whom these arguments were addressed, familiarly said of him that other advocates were plausible, but Parsons made a case plain and intelligible. I never studied a subject so well, or understood a science so thoroughly, as the elementary principles of geometry, and none of my juvenile studies had so deep and permanent an influence on my habits of mind.'

"For a mind, whose leading characteristic is a love of knowledge, free of the ambition of distinction, and the meaner ambition of reward, strengthened by the severe and abstract processes of metaphysical and mathematical studies, one career naturally opens itself. It will seek truth—not in the department of man's material and animal life, "but in those higher relations which subsist between man as a spirit, and the source from which he sprang, and the destiny to which he is to attain. So we are not surprised to hear Judge Ware confess, that favoring influences aided the natural bent of his genius, to invite him to enter upon the study of theology, and devote his life to the office of preaching. From this project, however, he was deterred by the perhaps unexpected results to which he arrived, in turning his scientific and severe methods of investigation, to the prevalent religious beliefs of his time. These results he perhaps wisely concluded would be a too great innovation upon the cherished convictions of the religious mind of New England, to justify him in publicly proclaiming them. He had no taste for controversy. Notoriety only annoyed him. A wise skepticism, rather than a dogmatic and arrogant assurance, and a thorough respect for the genuine convictions of thinkers who honestly differed from him, compelled him to turn away from his favorite studies, and to use them ever afterwards as the recreations and solace of a life devoted to adjusting, upon far lower grounds, the controversies of men as to their natural rights and obligations. While these opinions of his may have well seemed heretical in the narrow prejudice which held New England sixty years ago, the expanded thought of later times has comprehended and embraced them within the limits of a Christian charity and sympathy. For, after his severe and candid inquiry into the grounds of religious faith, his written confessions show that he held firmly

to these conclusions; that the Universe proceeded from the hand of an intelligent Creator, who holds and governs it in the interests of justice and goodness; that man is amenable to the law of right, which is equivalent to the will of God, and is destined to an existence beyond his earthly life, where his condition will depend upon the fruits of virtue he has been able to gather from the good and evil influences, in the midst of which he had lived; and that Christianity, whose essence is the doctrine of the Fatherhood of God, and the equality of man, and whose highest sanction of virtue is furnished in its most clearly stated doctrine of a future life, if not a supernatural and miraculous revelation, is a historical and providential development of the progressive religious attainment of man, the best, as it is the last fruit of his religious aspirations. Turning regretfully away from these high subjects, literature seemed naturally open to him; but sixty years ago literature was not recognized in our country as a profession. His mind had been trained to dwell only in realities, to seek for truth more than for beauty, and to grasp substance rather than form. He “disclaimed for himself ideality and a strong poetic fancy, and so what he called the ‘lighter and more ornamental graces of polite letters,’ had no attractions for him. In this, too, he must be considered to have judged himself too severely, for that very fondness for precise and unequivocal statement, that orderly and logical method, that candid appreciation of all adverse argument, supplied by his metaphysical and mathematical studies, aided as they were by familiar converse with the models of classic oratory and poetry, laid the foundation for a style of expression eloquent in its simplicity and perspicuity. The vividness of his personal and historical sketches, the clearness and picture sequences of statement in his judicial reports of the facts and incidents upon which he bases his judgment, and the charm of language which, in his private conversation, often arrested the attention even of uneducated persons, showed that he had mental qualities that would have rendered him conspicuous in literature. So, steadily and without regret or misgiving, he turned his well-furnished mind to the study of law. An appointment, never more fittingly made, placed him upon the bench of this court, in a position that exempted him permanently from the cares of getting a livelihood, and preserved his pure and unsophisticated character from those intrigues and ambitions which work among our ablest public men such deplorable demoralization and deterioration. The field itself was sufficiently unpromising of anything but ease and obscurity. It was just the place for an indolent and superficial man to subside into routine and self assumption. What Judge Ware has done in this field, by putting genius and high intellect into his work, may now be seen in the published reports of his judgments, —important contributions to the splendid system of maritime jurisprudence, that regulates the commercial intercourse of civilized nations, and ever to be remembered as the best monuments of his fame.

“The law of the sea, he was called upon to pronounce, must be as liberal and comprehensive as its own compass and extent. The common law, whose maxims had been

derived from the feudal system, a highly artificial and aristocratic form of society, would never serve to regulate and restrict a commerce, inviting the freest competition among the most daring and adventurous, nor could the codes or legal principles derived from the consent or custom of a single people, accommodate themselves to the notions of rectitude and fair dealing, recognized by an international comity. It was left to the enlightened sense of justice, to determine the natural principles of law applicable to each case as it arose. Each court was put upon its conscience to pronounce a decree that should accord with the universally accredited sense of justice, or else it would nowhere be respected as the sentence of law. If local prejudice or patristic feeling blinded its candor, it rightfully lost its authority. At the time Judge Ware took his place upon the bench, the English precedents in admiralty were rare, and only partially applicable to this country, where we had given our admiralty courts a more liberal jurisdiction; and as to the precedents of other countries and treatises, though the work of men of great genius and learning, it must be remembered how soon they would become obsolete, by the expansion and transformation of commerce, through the discovery of new countries, the production of new materials, the invention of more powerful forces of propulsion, and the new commercial usages which would grow out of more frequent and rapid commercial intercommunication. A capacious and well-poised mind to define, for new situations and new relations, the law of natural right, which should not only decide the case in controversy, but be an authority for like cases at home, and receive the respect and acquiescence of the courts of foreign nations, was what was required. For

such an office, with such opportunities, the natural and acquired qualifications of Judge Ware were peculiarly adapted. The very taste that had inclined him to theological studies, made him a just and upright judge. The pure and ethical ideas, by which he had regulated his own life, the keen moral sense that defined in his soul so sharply the boundary between right and wrong, gave him a power of moral perception, able to detect under most plausible disguises, every form of oppression and fraud. His metaphysical discipline enabled him to see the weakness of an adverse argument on any subject, to make nice distinctions and just discriminations, and to detect sophistry, and he had learned from geometry how to 'select and arrange,' in his judicial opinions, 'the thought and the matter.' When to this was added an elegance of style, derived from his classical and general reading, we can understand why the reports, which, when completed, will contain the judicial labors of his life, are everywhere held in such high estimation as authority by the courts, and as attractive to the professional and general scholar. There was another mental trait which peculiarly fitted him to be the vindicator of the wrongs and oppressions of seamen. Few men have more heartily believed in the idea of the natural equality of men. He refused to assume any artificial dignity. It was with difficulty that he conformed to the prescribed etiquette and decorum of his own court. It offended his simple taste to assume any badge or drapery, or to take a place in any procession. He liked to come quietly and unheralded, and take his seat in court, clothed only in the natural dignity of his own character and intellect; and if his seat was raised above the level of his friends, the officers of the court and members of the bar, the exclusion and elevation seemed a constant annoyance to him. This democratic feeling crops out everywhere in what he has written. His comments upon history, though mainly dispassionate and critical, grow fervid with indignation at the oppressions and exactions which tyrants and rulers practiced upon the people; and his hearty attachment to Christianity seems largely due to its recognition of the brotherhood of man, and to the solace its high hopes offer to the sufferings and sorrows of the poor and down-trodden.

"Assuming no artificial dignities for himself, he could not defer to any assumptions of rank among those to whom he dealt out justice. Different positions determined different scales of responsibility and duty, but these fairly considered, a man was a man, and below the rank and rights of a man he would never allow a human being to be placed, whatever might be his race or color, or however limited his intellect or education. "When at the end of a term of judicial service, are in the annals of any people, and unprecedented in ours, he resigned his high office, this bar assembled in this court to express a just appreciation of the long official service he had so ably performed. We are now assembled when the long life itself, so successful and happy beyond the common lot, is rounded to a measure of years seldom allotted to man, to do honor to his character, and to give our testimony of his "high worth, and to commend him, as an example of rare excellence, to the emu-

lation of the generation of young men who are to succeed us. We may point to his, on the whole, happy old age, as a fit illustration of the noble language of Cicero: ‘Aptissima omnino sunt arna senectutis artes exercitationes—que virtutum, quæ in omni ætate cultæ, quum diu multum que vixeris munificos efferunt fructus, non solum quia numquam deserunt, ne extremo quidem tempore ætatis—quamquam id quidem maximum est—verum etiam quia conscientia bene actæ vitæ multorumque bene fac torum recordatio jucundissima est.’ “

At the close of these remarks, M. M. Butler, Esq., rose to offer the resolutions of the bar, and said:

“May it please your honor: Accompanying the announcement, which has just been made, in so fitting terms, of the decease of Judge Ware, I have been deputed by the Bar Association of Cumberland County, to present to this honorable court, over which he so long and so worthily presided, the resolutions which have been unanimously adopted in view of the occasion, expressive of our veneration of the man, and our appreciation of his virtues and public services. In discharging the duty assigned me, naught indeed can be added, by any poor words of mine, to the beautiful tribute— alike appreciative and discriminating—which has just been paid to his memory; naught certainly should be taken away therefrom.

“I am sure that our brother Talbot has not, in any degree, overestimated the importance and influence of Judge Ware’s judicial labors. The estimate which Judge Story put upon them, when he said that he regarded Judge Ware as one of the ablest and most learned, if not the ablest and most learned of the then living admiralty lawyers, was concurred in by the voice of contemporary assent, and has been confirmed by the later judgment of the bar of this generation. Among the great lights, by which the paths of admiralty and maritime law have been illumined, his name will shine serene, —a star of the first magnitude. His recorded decisions, beautiful in structure, adorned with grace, and resting on the solid foundations of principle, have raised an enduring monument to his fame. His services in the cause of enlightened jurisprudence have already conferred, and will continue to confer, so long as justice shall be dispensed, lasting benefits on mankind. The allusions to Judge Ware as a scholar have been most happy. It was certainly not alone in professional learning that his attainments were remarkable. He cultivated almost the whole boundless field of human knowledge—metaphysics— theology—polite literature—the classics—modern languages— the sciences—mathematics. He was scholarly in all his tastes and habits. He was one of those deep, quiet, unobtrusive students, of which our country has more in number, I believe, than we get credit for across the Atlantic Any review of the life of Judge Ware would be incomplete without reference to him as a citizen and member of society. His participation—so far as was befitting his position—in the business enterprises of our city, his connection with our educational interests, his selection, at dif-



ferent periods of his life, as president of two different banking institutions, and as director in another; his identification with the growth of the public improvements of the state, as early president of one of our leading railroad, companies,—these attest at once that Judge Ware was no recluse, and the confidence which was reposed in him by the community. He ever took a lively interest in public affairs. In early life, before his elevation to the bench, he wielded a most trenchant pen in the discussion of the important political questions of the day, and afterwards throughout his judicial life, he never ceased to feel, and manifest on proper occasions, his deep interest in all that pertained to the welfare of his beloved country, the state of his adoption and the city of his home. He was a good citizen, a pure patriot, a genuine lover of liberty, a true Democrat, in the higher and nobler sense of the word. But we, especially the older members of our number, who have been brought into more intimate relation with him, would hold in remembrance with enduring regard, Judge Ware, not alone as a great jurist, a ripe scholar, and good citizen, but as the modest, genial, true-hearted man that he was—possessing a tenderness of nature almost feminine,—a simplicity of character almost childlike. In our intercourse with him, none can recall an unkind act or a harsh word. No man had less occasion to repeat the beautiful prayer of the liturgy : ‘From hatred, envy, and malice, and all uncharitableness. Good Lord deliver us.’ After having gone in and out before us in his judicial career for more than forty years, having passed beyond the extreme limit allotted by the Scriptures to human existence—life’s labors faithfully performed, his earthly tasks fully accomplished—this righteous judge, this great jurist, this pure-minded citizen, this excellent man has gone in fullness of

time to his reward. Peace be with his ashes. May we not reverently inscribe over his grave:

‘Cujus est so’um, ejus est. usque ad cœ’um.

“May it please your honor: I move that the resolutions to which I have referred, and which, with your honor’s permission, I will now read, may be received and entered upon the records of the court:

” ‘Resolved, that we, the members of the Cumberland county bar, deem the recent death of the Honorable Ashur “Ware, formerly, and for more than two score years, judge of the district court of the United States for the district of Maine, an appropriate occasion for us, who enjoyed with him the kindest and most friendly relations, both professional and personal, to pay our affectionate tribute of respect to his memory, and to testify our grateful appreciation of his virtues and public service.

“ ‘Resolved, that the eminence of Judge Ware, in those branches of jurisprudence to which he devoted the labors of his life, has been so universally recognized, as not to need commemoration at our hands. But now that he has gone from us, we would fain give expression to our renewed sense of the importance and influence of his judicial labors, which have left so lasting an impression on the jurisprudence of his times, and our increased admiration of those luminous and erudite judgments, recorded in the reports which bear his name, which for sound learning, depth of research, logical acumen, felicity of illustration, and mastery of the English language, in a style of simple grace and beauty, are models of their kind in “judicial literature, and have served no mere temporary purposes, but have become, to a great extent, the foundation of the practice and administration of admiralty and maritime law throughout the land, and precedents for future jurists forever.

“ ‘Resolved, that as members of the bar, we shall ever cherish in affectionate veneration the recollection of the modesty, simplicity, and courtesy that distinguished Judge Ware’s social and official intercourse with us; of the cordial affability that was always ready to communicate to us his varied stores of thought and learning, and of the many virtues which endeared him to the community in which he lived.

“ ‘Resolved, that a copy of these resolutions he communicated to the family of the deceased, and that the same be presented to the court over which he has so long presided, with a request that they be entered of record.”

Hon. Nathan Webb, United States district attorney, seconded the resolutions, and said:

“May it please your honor: In rising to second the resolutions of respect to the memory of Judge Ware, which have now been offered by the Cumberland Bar Association, I cannot but feel regret that I never enjoyed to any considerable extent his personal acquaintance, and am consequently unable, out of my own experience, to add anything to

the tribute of affection for the man, contained in this expression of the bar. On every side are met those, who for many years associated with him on terms of friendly intimacy. All unite in their testimony to the kindness of his nature, his purity and simplicity of character, his accurate scholarship and extensive and varied attainments. Companionship with him they esteem among their most valued opportunities. Those of us, who knew him only in his judicial relations, recognize the fruits of those traits of character, and of his thorough and various culture in his official life and service. Whoever studies the published opinions of Judge Ware will not fail to be impressed with the clearness of his intellectual perceptions, the precision and order of his statements, the rigor of his logic, the fullness of his research, the grace of his style, and his conscientious zeal to discern and to uphold truth and justice. Those opinions are widely known and valued: they have been known and valued, and held in ever increasing honor since they were promulgated. It is not easy for us, who have pursued our researches in those branches of law in which he was so illustrious, to measure the sum of our obligation to his labors under the guidance of which we walk. Neither is the toil of those who have come after him, and walk in the paths he has cleared, to be compared with his task in making those paths plain and easy. While he diligently devoted his powers to those pursuits appropriate to his position as a judge, he never lost his relish for the studies of his earlier years, but throughout his long life found leisure to gratify his love of literature and science. He ever turned with delight to the classics, of which, in his prime, he had been a critical student and an ardent lover. He did not therefore, become indifferent to the interests of his own days, but was a constant and thoughtful observer of men and events, often with his pen giving important counsel and assistance in securing a wise direction of affairs. Remembering him, and the history of his life, we may account him happy, as well in the number of his years, as in the experiences they brought, and for ourselves, to whom he was so long spared, and who have the benefit of his bright example, we may, as we turn to our duties, reverently say:

“Why weep we then for him, who having won  
The bound of man’s appointed  
years, at last, Life’s blessings all enjoyed,  
life’s labors done, Serenely to his final rest has  
passed; While the soft, memory of his virtues yet  
Lingers like twilight hues, when the  
bright sun is set.”

Hon. John Mussey, for many years clerk of the circuit and district courts, while Judge Ware presided in the latter, arose, and with much feeling said:

“May it please your honor: Having long known the distinguished jurist, whose recent decease is the occasion of this meeting of the brethren, it seems right that I should say a few words about one, with whom for a long period I was so intimately connected. The high stand he occupied for many years as the exponent of maritime and admiralty law, is well known to you and the community at large. When he took the bench of the United States district court of Maine, in 1822, the rights and duties of seamen, the authority and

responsibility of officers and owners of our merchant marine, were alike in great measure unknown and unrecognized by both the employers and employes. The clear head of the judge soon evinced the determination and ability to bring order out of confusion and misconception. At first, many of his rulings clashed with the prejudices of owners and masters, but as case after case came before him, the mists of prejudice and shortsightedness lifted and dispersed. Soon those of the community interested looked up to him in confidence, that good common sense—a just appreciation of their needs, would be furnished by Judge Ware as opportunity offered, and they were not disappointed. The most violent opponents to his teachings gave way, and all felt, if they did not acknowledge the fact, that he was truly a public benefactor; that law as delivered by him was sound, reasonable, well-grounded, and would stand the severest scrutiny; and so it proved to be, by the voluntary acknowledgment of many eminent jurists in the Union. A few words of his social and home life. Modest and unobtrusive, he was ever ready to aid and encourage the efforts of the young practitioner in this court. No one, I think, ever left his chambers without being instructed and pleased. To myself, the recollections of the past are most grateful. His manner was always simple, unaffected, and childlike, and his heart full of the milk of human kindness. During a period of more than twenty-six years of official intimacy, never a hasty, cross, or angry word ruffled our friendship. A kinder or more constant friend and companion on the journey of life, I never had nor could desire to have. Such was Ashur Ware as he ever appeared to me.”

The following is the response of Judge Pox, [this may also be found in 2 Hask. 542:]

“Gentlemen of the bar: Judge Ware was appointed district judge of Maine, in February, 1822, and he continued in the discharge of the duties of the office, until the spring of 1866, his resignation taking effect in May, I believe, being then compelled

by the infirmities of years to withdraw from this place which he had, by his learning and ability so ably filled for more than forty-four years. Although eight years have not elapsed since his retirement, I think a large proportion of the members of the bar now present, never enjoyed the satisfaction of practicing in the court whilst he here presided, and many of those who were then with us, distinguished in their high professional positions, have since passed away from us. The remembrance of the Fessendens, Evans, Deblois, Barnes, and others, is still vivid with many of us, and at last, this good old judge, so endeared to all who ever held personal intercourse with him, has gone to his reward, after years of feebleness and suffering, and it is just and due to his memory, that the records of this court should, so long as they exist, transmit to those who shall follow us, the expression of the great respect and attachment entertained for him by this bar. Having, for nearly thirty years, practiced before Judge Ware, I trust that in the presence of so many of the bar who have not been thus favored, I may be excused for referring briefly to the manner in which he discharged the duties of his position, and in acknowledging the heavy indebtedment we are under to him for his studious labors in the admiralty law, and the information he has imparted to us upon this branch of jurisprudence. In 1822, Peters' and Bee's were the only reports of decisions in the district courts of the United States, and most of the opinions contained in these volumes were quite brief and meagre of authority, so that Judge Ware, in almost every question of admiralty and maritime law, was compelled to depend on his own researches into the ancient laws of the sea and maritime codes, and his own wisdom and judgment, for his conclusions, as the cases were presented before him for decision. Fortunately for him, his practice in the courts of common law had been of but little moment. His mind was not trammelled by the harsh and unyielding rules of Lord Coke and his followers, and being naturally of a broad Catholic tendency, it was with the greatest satisfaction that he found himself at full liberty to adopt, modify, and apply the pliant rules of equity and admiralty, as the law of his court, according to the circumstances of each particular case. The strict rules of the law of evidence did not always receive his sanction and approval, as some of us may well recollect his readiness to hear almost all that a witness might press into the case, although much of the statement would not have been received in a court of common law. Judge Ware's literary acquirements were second to no man's in this district. He was conversant with the Greek and Latin, as well as with the French, languages, and could thus investigate and examine for himself their authorities without depending on the assistance of others. His extensive acquaintance with the Roman law and the various French writers on commercial and admiralty law is manifest in almost every one of his opinions, which we now possess. He most thoroughly enjoyed the investigation of questions of admiralty and maritime law, making the most-diligent search and examination among the rules and sea laws of the ancient marts of commerce, and he pursued his studies and explorations until he was complete master of the subject,

so that nothing remained for him, but to present his conclusions in that clear and beautiful manner which is so distinguishing a characteristic of all his opinions, and in which he has never been surpassed, either at home or abroad. Quite often his opinion was not restricted to a mere determination of the rights of the parties in the cause, but, conscious of the importance of his labors, and of the benefit to be derived from the knowledge he would thus impart, he made his opinion a most elaborate and finished exposition of the great principles of admiralty and maritime law involved in the matter in controversy, in relation to which at that time, the entire profession was almost universally ignorant. So complete and thorough were his examinations, so convincing his judgments, that in many cases since his time, the most learned and eminent jurists have referred to them as conclusive authority on the questions he so well investigated, being convinced that their own researches would shed no new light upon a matter which had received the careful and diligent investigation of Judge Ware. His written opinions were deemed so valuable, both to the public and the profession, that they were generally made public through the press immediately on their announcement, and they at once were accorded by the entire profession, the very front rank in admiralty and maritime jurisprudence. In the year 1839, the first volume of his reports was published, followed by a second in 1849, and the demand for these works has been so great as to require a second edition of each of them. A large number of treatises upon admiralty law, and volumes of decisions of various courts of admiralty, both in England and this country, have since that time issued from the press, but all, I believe, are under great obligations to Judge Ware, and no one can acquire a knowledge of admiralty law, without an intimate acquaintance with his decisions. It is quite extraordinary, the multiplicity of questions which he examined, and upon which we enjoy the fruits of his labors. Since I have occupied this chair, hardly a maritime question has been presented to me, in which I have not at once turned to his reports, and derived great assistance from them. In a large majority of the cases, I think I may truly say, I have found in his opinions principles there laid down, applicable to the case I was investigating, and so clearly stated that my own labors were at an end, and nothing further "remained for me but to acknowledge my obligations and recognize their authority. I believe no treatises or reports are now extant which are at this moment more useful to the profession, or more frequently acknowledged as authority, or which can afford more knowledge and information than these reports. There is not a judge administering the admiralty law, either in this country or in England, who has not profited by the labors of Judge Ware, and gratefully acknowledged the obligations thereby conferred. The debt due from us all to the profession, according to Lord Bacon, was more than paid by Judge Ware. It was not discharged by any depreciated currency, but was paid in full in pure coin, both principal and interest.

“Judge Ware was of marked simplicity of character, and was always actuated by entire singleness of heart and purpose. The kindest and most friendly relations ever existed between him and the members of this bar. His intercourse with us was ever free and informal, never in the least pretentious; and it always was a pleasure to him, to assist us by his advice in relation to his own decisions, as well as to principles of law upon which we desired information; and I have very frequently in this manner received from him most valuable assistance which it would have been extremely difficult, if not impossible, to have procured from any other source. He had no favorites. Every one who appeared in his court, whether young or old, was certain that all stood on an equality in his presence. With courtesy and the greatest patience, he listened to the views which counsel saw fit to present, the manifest purpose of the judge being to obtain light, to aid him in his determination of the cause, without regard to the source whence it was derived. No one ever took part in a trial before the judge, without becoming attracted to him, and feeling the highest respect for him, as well for the kindness of heart ever exhibited to whatever counsel a party might select to advocate his rights, as for his diligent attention, for his acute wisdom and judgment, and the learning and research manifested in his elaborate opinions. Many of the causes brought before a court of admiralty, such as claims for wages, torts, etc., are of small amount, and of much a nature that any protracted delay of judgment therein, is tantamount to a denial of justice. In this class of cases, the court, under the conduct of Judge Ware, always sat ‘*velis levatis*.’ Most, of these causes were decided upon the conclusion of the arguments, and those which were retained for advisement, were at once examined, and an

opinion prepared and announced in a very few days. The researches I have made do not indicate, that in any admiralty cause presented to him for decision, his opinion was delayed for more than thirty days, and generally it was announced the week succeeding the hearing.

“Judge Ware was alike attentive and diligent in the discharge of his duties as a member of the circuit court for this district, always attending the sessions of that court as long as his health would permit. He frequently presided at jury trials, but his enunciation was not clear and distinct, and his charges were not so fascinating and effective as those of his eminent associate, Mr. Justice Story, but his rulings and instructions were almost invariably sustained when presented for re-examination, and on one occasion I remember, against his own convictions, he having become satisfied that they were erroneous, whilst his associate was of opinion that they were strictly correct, his honesty of purpose leading him to insist on his ultimate opinion and for the reversal of his rulings at nisi prius—and no judge ever strove more firmly to correct what he believed to have been an error committed by himself, than did Judge Ware on this occasion. In another cause he could not concur in an opinion prepared by Mr. Justice Story, and although no jurist ever existed whose opinion was, with Judge Ware, of so high authority as that of Judge Story, he felt obliged to prepare a dissenting judgment, which upon appeal to the supreme court received the sanction and approval of that tribunal.

“For some time before his resignation, it was quite manifest to all, that the infirmities of old age were gathering around him. His hearing was so impaired that for a number of years he was under the necessity of taking his seat within the bar with the witnesses in close proximity, that he might understand their testimony. No one was so conscious of his weakness and infirmity as the judge, and I know that his resignation would have been presented at a much earlier day, if he had not, with strict sense of justice, realized, that he had claims upon the public, after expending so many years in its service, which it had no right to expect him to surrender so long as he could attend to the duties of his office. A year or two since, some of you, believing it but a partial recompense for the benefit he had conferred upon the profession, as well as upon the whole mercantile community, endeavored to induce congress to allow Judge Ware the advantages of the retiracy provisions, which have since been conferred upon the judges of the federal courts. The house of representatives almost unanimously acceded to the proposal, but it was defeated in the senate. This kind-hearted, learned, and good judge, has finished his labors on earth, and it only remains for us, who have been so profited thereby, and who have been so highly favored by his wisdom and learning, to testify our acknowledgment of our great obligations, by the open record in this tribunal, where he so long and so eminently presided, of our testimonial in respect and honor of his memory.”

At the close of these remarks, the court adjourned.



Such eloquent tributes, so appropriately paid to the character and labors of the eminent judge, the closing chapter of whose official service has been committed to the reporter for supervision, leave nothing to be added of public interest. But the pen (of one who for many years, as clerk of the circuit court, was associated with Judge Ware) still lingers over the memory of virtues better observed in those daily walks where true character is best exemplified. While the commercial world owes gratitude for his judicial labors, the little circle near by his chambers, could best appreciate the kindness of his nature, and have profited most by the charm of his conversation. Though largely retired from public observation, except when in court, Judge Ware always delighted in a cordial intercourse with those whose official relations presented frequent opportunity for it. To be in companionship with one whose sense of justice was the crowning excellence of his character, and to listen to the words of one whose genial nature added lustre to the wealth of his learning on almost every subject, was no ordinary privilege. While all properly may have been eager to twine a wreath of laurels for his fresh-made grave, one sprig at least, and that, providentially the last, may well be added by G. F. E.

WOODRUFF, LEWIS B.

[For brief biographical notice, see 30 Fed. Cas. 1403]

The following proceedings of the bar are reprinted from 13 Blatchf. 535:

The members of the bar in the city of New York met in the United States circuit court room, on Wednesday, September 15th, 1875, in response to a call, of which the following is a copy: "The members of the bar are requested to meet in the United States circuit court room, on Wednesday, the 15th inst., at 2 o'clock P. M., to give expression to their sense of the loss which the profession and the community have suffered in the death of the Honorable Lewis B. Woodruff, circuit judge of the United States: William M. Evarts, George Gifford, John E. Burrill, Welcome R. Beebe, Henry E. Davies, Edward H. Owen, Joseph H. Choate, William Stanley, Edmund Randolph Robinson, George T. Curtis, Enoch L. Fancher, Erastus C. Benedict, Francis F. Marbury, George Bliss, Burr W. Griswold, Joseph S. Bosworth, Charles F. Sanford."

Hon. E. C. Benedict nominated as chairman of the meeting, Hon. Samuel Blatchford, judge of the district court of the United States for the southern district of New York. The following additional officers were elected, on motion of George Bliss: Vice-presidents—Charles L. Benedict, Nathaniel Shipman, William J. Wallace, William D. Shipman, Murray Hoffman, Charles P. Daly, Noah Davis, Claudius L. Monell, Charles A. Rapallo, Daniel P. Ingraham. Secretaries—John E. Burrill, Aaron J. Vanderpoel, Charles P. Sanford, Benjamin K. Phelps. Joseph H. Choate, Esq., on behalf of the committee who called the meeting, offered the following resolutions:

"The members of the bar of New York have heard with deep and general sorrow of the death of Mr. Justice Woodruff. Identified with the administration of justice in this

community for a period of forty years, his career was a continued progress of ever-increasing honor and power. Entering upon life with every advantage of education, and a mind enriched by the fruits of severe study, he attained, in early manhood, a conspicuous and responsible position, and thenceforth to the end pursued the practice of the law as a science and not as a trade, and did his part always to maintain and uphold it as a dignified and liberal profession. He scouted the low arts that would debase it, and abhorred and denounced every attempt or tendency to prostitute it to unworthy purposes. He had a conscience that never slept, and he followed its light through all the mazes of the law. His laborious and absorbing devotion to the cause of his client was proverbial, and this, with his ample learning and honest and manly character, made him always a leading figure among his brethren, an ornament of the profession, and a most valuable member of society.

“But great as were his merits and virtues at the bar, his rich and varied services to the state and nation for twenty-five years, as an able and upright judge, are now his chief title to reverence and eulogy. His idea of what constitutes a judge was that old-fashioned standard which exacted of him the richest learning, the deepest study, the liveliest conscience, and absolute honesty, and he did his best to live up to it as nearly as human infirmity would permit. In whatever court he sat, the authority of his decisions was powerful with his associates, and recognized by the bar. Serving successively in the court of common pleas, the superior court, and the court of appeals, he did his full share to shape and frame the body of the law as it prevails among us to day; and his rich and growing experience, and the widely-extended reputation

of his ability and learning, attracted to him a large measure of public attention; so that when, upon the reorganization of the circuit court of the United States, a judge was to be found to exercise its vast powers and responsible duties in this great circuit, the general sense of the profession and the community approved the judgment of the president in selecting Judge Woodruff as the proper man. How well the choice was justified the record of his judicial labors in that court for the last six years will testify. In bidding farewell to the grave to this eminent and useful lawyer and judge, the members of the bar desire to put on record their high estimate of his mind and character; to cherish the memory of his life and labors; and to commend to one another and to those who follow them, his excellent example.

“Resolved, that a committee of three be appointed by the chair to present these resolutions to the circuit court and the court of appeals, at the next session, and to ask, on behalf of the bar, the entry thereof upon their minutes.

“Resolved, that a copy of these resolutions be transmitted to the family of the deceased.”

Hon. Joseph S. Bosworth then addressed the meeting, as follows: “The members of the bar and of the bench have met on this occasion to express their regard for the virtues, their admiration of the learning and official usefulness, and their sorrow for the loss, of one of the most worthy and eminent of their number. It was my good fortune to have been personally acquainted with our deceased brother for many years, as a neighbor and friend, before he was elevated to the bench; to have been officially associated with him for the term of six years in active judicial service; and to have maintained relations of friendship and intimacy with him since our official association was ended. In his own home he was hospitable and genial. He never seemed happier than when his house was filled with his relatives and friends; and I do not believe that any one of them ever had any occasion, from one act or look of his, to suspect that he thought the visit was unnecessarily protracted, whatever may have been its length. The first office to which he was elected was that of judge of the court of common pleas of this city and county, a court which has always had among its judges men of mark and decided ability. His associates in that court were Mr. Justice Ingraham, an industrious, able, learned, and efficient judge, and the present scholarly and accomplished chief justice of that court, Mr. Charles P. Daly. So worthily did he acquit himself in that position, that his associates expressed extreme regret that he should be disposed, as it drew to a close, to accept a nomination for the office of judge in another court in this city, of coordinate jurisdiction. But he did accept such nomination, and was elected a justice of the superior court of this city, in the fall of 1855, for the term of six years. His associates in that court, naming them in the order in which they were elected, were Chief Justices Oakley and Duer, and Judges Bosworth, Hoffman, Pierrepont, White, Moncrief, Slosson, and Robertson. Of these nine associates

of his, only three survive—Messrs. Hoffman, Pierrepont, and Bosworth. Of these three associates, only Judge Pierrepont, the present distinguished and efficient attorney-general of the United States, was younger than Judge Woodruff. As a member of the superior court, no judge was more laborious or painstaking than Judge Woodruff. His powers of analysis were great, his logic was compact and convincing, and whether examining the papers on a motion, or the questions of law and of fact in a case tried before him, or a case on appeal, he gave to each the most careful attention and deliberate consideration. He was learned in the law, and although, occasionally, his opinions were disapproved by the court of last resort (a fate which quite as often befell the opinions of each of his associates), they expressed, as all his opinions expressed, the honest conclusions of a well-instructed judgment. He was eminently conscientious. His manner on the bench has been criticised by some as being, at times, austere and harsh. I cannot resist the inclination to say one word upon this topic, although, conscious of the delicate ground on which I tread. His feelings were kind and strong. He was sincere, earnest, and energetic in his work, whatever-it might be and wherever to be performed. This-sincerity, earnestness, and energy may, at times, have permeated and given color to his manner and. action in disposing of questions arising at the trial, or in banc, requiring prompt and summary decision. But this sincerity, earnestness and energy were, in his case, the marked qualities of a true-man and of a fearless, able, and upright judge. They were not—I feel that I can say I know they were not—imbued with any feeling of unkindness-to any suitor, his attorney or counsel. It would have been a most painful thought to him that he-had ever given just occasion to be suspected of a conscious want of courtesy to any member of the profession in his intercourse with them. After 1861, he was actively engaged as a member of our profession in heavy and. important causes, until, at the close of 1867, he was appointed judge of the court of appeals. His opinions in that court attest his industry, great ability, and extensive legal erudition. Of the manner in which he discharged the duties of the office which he held at the time of his death I cannot personally speak. My humble duties did not bring me into the circuit court of the United States for this circuit while-he presided as its judge. But the concurring testimony of all whose practice in that court was extensive, is, that his industry, ability, and efficiency were as conspicuous there as in any of the other judicial positions which he had held and adorned. It may be said of our deceased brother, that his life was useful, active, and distinguished. He was eminently useful to his family, to his relatives, to the bench, to the bar, and to the community at large. But his life and his example were not useful to the community merely as the efficient life and instructive example of a learned and laborious lawyer, and of an able, fearless, and upright judge. He believed, and acted of the belief, that humanity has interests and a destiny which, do not terminate when the individual man has-ceased to breathe. In the relations which he held, in consequence of this faith which was in him, he discharged all the duties growing

out of them, worthily and well. He has gone to his rest, after a well spent life, beloved, respected, and honored by all who knew him, and by a goodly company who personally knew him not. The community in which he lived, which he served, and in which he died, will remember, with admiration and gratitude, his life of personal and official purity, and will appreciate the worth of his example, in the influence it may be hoped to exert over those who-survive and shall succeed him in their personal social, and official labors. All, whether relatives or friends, who now or shall hereafter think of our deceased brother, will contemplate a husband, father, citizen, lawyer, judge, and Christian gentleman, possessing a character of finely developed proportions, exercising wisely and well all his good and great qualities in the various relations-of his distinguished career. All of us will feel, and will be made happier by the consoling assurance," that, in the world to which our deceased brother has gone, all is well with him now, and forever will be."

George Gifford, Esq., then addressed the meeting, as follows: "After the much that has been said, and well said, respecting the excellencies of our departed judge, I will simply add, in a few words, my testimony to his having possessed in a high degree those characteristics which rendered him eminently qualified for the special duty of administering patent laws. My specialty being practice in patent cases, and his court having original jurisdiction in patent suits, gave me special opportunity of becoming well acquainted with the ability which he manifested in dealing with such cases. I was in the first patent cases which he heard after coming to the bench of the circuit court, and was one of the counsel who argued the last case he heard, which was commenced in the courtroom and concluded at his residence, after he was unable to return to the court-room. Judge

Woodruff was richly endowed with properties of mind which were well calculated to insure that distinction in the administration of the patent laws which he so rapidly acquired. He had no prejudices either for or against patents. His sympathies ran neither too high nor too low for inventors. His mind was an even balance in which their merits were correctly weighed. He was free from bias in his deliberations respecting the products of inventive genius. He was patient to hear counsel, and willing to be instructed by the results of their researches. He never allowed his first impressions of a case, however strong or vivid, to lead him to rash conclusions, or to prevent needful examination to insure correctness. He was a learned judge in science and in law. He was an able, theoretical mechanic. He had a natural taste for mechanism, and a great power in discriminating between similarities and differences in machinery. His ability in analyzing mechanism and identifying what was essential therein, was unusually great. His power of drawing a line and discriminating between the essential parts and non-essential parts of an invention was unsurpassed. Appreciating the danger of making mistakes in disposing of the different mechanical questions which often arise, and the disastrous consequences to parties which sometimes follow, it was his habit not to dispose of such questions hastily, but to carefully deliberate, and, sometimes, subject himself to great labor and fatigue to be sure he was right. The recorded decisions of Judge Woodruff, rendered in patent cases, are remarkable for their clearness and soundness, and are very properly much respected as reliable authority in all the federal courts. We were fortunate in having him called to the bench of the court in which he presided at the time of his death, but we have been still more unfortunate in having him so soon removed from us."

Hon. Richard Goodman, of Lenox, Massachusetts, then addressed the meeting, as follows: "Having been notified only a moment or two ago, that I was expected to make any remarks on this occasion, of course I must confine myself almost entirely to such reminiscences of my connection with Judge Woodruff as occur to me at this time. My acquaintance with Judge Woodruff commenced early in my professional career. After leaving the Law School at New Haven, I entered the office of George W. Strong, Esq., then one of the leading lawyers of this city; but finding that he was mainly consulting counsel and had little practice in his office, I looked around for an office where I could learn the practice as it then existed. I was introduced by a fellow-student to Mr. Woodruff, not then a judge. I found him in a building on Broadway, I think, between Cedar and Pine streets, upstairs, occupied in part by the Express newspaper, and his office was on the second story, and below, of all things in contact with a lawyer, was a mock auctioneer's establishment. My surprise was great that any lawyer could occupy an office with the continual sound of that hammer in his ears, and the din of the street coming up through the large rotunda of the building. But Mr. Woodruff then displayed that great, concentration of mind and devotedness to his studies that always controlled him, and he was not easily diverted by

extraneous objects. <sup>1</sup> We continued there during nearly all the period of my studentship with him, and from thence removed to 88 Cedar street. An examination at the bar was then very different, as I understand, from the examination at the present time, for my learned Brother Bosworth, with Mr. Ward Hunt, now one of the justices of the supreme court of the United States, and the late President Fillmore, then examined the students, who had already passed through a seven years' course of study. So severe was that examination that, I think, only one in three of the class was at first admitted. On getting through the fire of that examination successfully, I returned to the city of New York, and entered into business for myself. About a year after that, Mr. George Wood—who had recently come from New Jersey, in which state and in the United States courts he had an exalted reputation—was here retained in some very important suits, among others, eminently, the suit of Ogden vs. Astor, in which Mr. Daniel Lord, with whom our associate, Mr. Evarts, was then, or lately had been, a student, was counsel on the other side. When retained in those suits, Mr. Wood, looking for a man who could conduct them successfully and intelligently as attorney and junior counsel, selected Mr. Woodruff.; and Mr. Woodruff, finding that those suits would occupy a great portion of the time which he would otherwise bestow upon his general practice, requested me to unite with him, and we formed a partnership about May, 1842. That connection continued with Mr. Woodruff until his elevation to the bench in 1850, and with Mr. Wood until his decease. During that time Mr. Woodruff's business was extensive; and, although he was not then as well known to the bar, or to the community, as afterwards, yet, by those with whom he associated he was especially prized; and it was the connection of Mr. Lord and himself with the case of Ogden vs. Astor which gave the former so high an estimate of Mr. Woodruff's abilities, and caused the promotion of Mr. Woodruff to the bench, for X think that Mr. Lord was the active agent in having his name brought before the nominating convention. Mr. Woodruff, during his professional career, especially during my connection with him, was that dangerous man, the man of one book. His library was select, but, until he became a judge, was not extensive, the main elements in it being 'Gould's Lectures,' in six volumes, copied by himself; and, whenever he had occasion to refer to authorities, those lectures were his principal assistance. But, although he was not a reading man, not a student, not a literary man, in the ordinary phrase, as expressed by us, either in law or in literature, yet there were few men so well posted in all the advanced theories on whatever subject might be circulating through the community. He was a troublesome man to discuss with, even when you were very well advanced in what you were talking about; and, whether it was a question of table-tipping or a question of science in any shape, or a question arising in the courts, or in literature, he always seemed to have thought much on the subject, to have great acquaintance with it, and to be well able to discuss it in all its elements. In addition to that, Mr. Woodruff, from my earliest connection with him—and, as I have

understood, long prior to that—appeared a man who always had his principles fixed, and never swerved from them. It is a very easy thing for a man to say he has fixed principles, but it is a very difficult thing, in the midst of business or temptations—and they come thick and fast upon the lawyer in active practice—it is a very difficult thing to carry out those principles on all occasions. When the late Edward Kellogg, of Brooklyn, (so well known for his original theories on banking and finance), at the time when there was an excessive speculation in real estate, first employed Mr. Woodruff, who was then just commencing practice and anxious for employment, he came to him and said, 'I have a large real estate business; I want your assistance, but I don't think I can afford to pay you five dollars for every deed you draw.' Mr. Woodruff's reply to him was—'Sir, I shall be very happy to have your business, but I cannot underbid my professional brethren. I understand the charge at the bar is five dollars for every deed drawn, and whatever business of that kind you bring me, sir,



that will be my charge.' Mr. Kellogg afterwards became his devoted friend as well as client, and Mr. Woodruff received from him and his friends a large amount of business. On another occasion a high official from Washington came on, post haste, on Saturday, to employ Mr. Woodruff. I think he had some acquaintance with him during their collegiate course. He arrived on Saturday night. He said his business was urgent, and requested an interview with Mr. Woodruff on the succeeding Sunday. Mr. Woodruff courteously but firmly responded, 'Sir, aside from my conscientious scruples on the subject, I devote that day to my family. I will attend to your business on Monday, but not to-morrow.' The applicant, although at first rather rebuffed, received the rejection courteously, came on Monday, the business was done, and both parties, I believe, were entirely satisfied. And that was the kind of man that Judge Woodruff was from beginning to end—a man of firm, fixed principles, which he carried out without regard to cost or inconvenience to himself. And Mr. Woodruff, although, I am happy to say, a man who, of late years, has lived comfortably, somewhat in affluence—though certainly not arising from the salary received from his office during the last six years—yet, during his long course of professional life, he never seemed to regard the amount of his fees as anything compared to the business to be done, to the principles which he was to carry out. and to the success of his client. It made no difference to him whether his client was a poor man or a rich man; the only point was the success of the suit in which he was engaged. He spent as much time and engaged in as laborious devotion to his business in the little matters for which he received a limited amount, as he did upon those in which he received a larger sum. And I know it was often a laughing remark of our associate, Mr. Wood that Mr. Woodruff seemed to spend a great deal of time in his office elucidating subjects with clients who were boring him, which he (Mr. Wood) thought beneath Mr. Woodruff's attention. It is said—and I have heard that remark before to-day—that Judge Woodruff, upon the bench, was somewhat austere. I have been absent from the bar so long that it has not come under my personal observation. With me there was never any austerity. During my long intercourse with him, he always treated me as a younger brother, and I found as kind a care in his house, as much fraternal affection from him, as much assistance whenever required, as I could have had from any devoted relative. But, if there was any austerity, it arose, in a great measure, if not entirely, from the earnestness of his nature. Within my recollection, there was a time when there was more cause than now, even, for apprehension on the part of lawyers, and austerity upon the part of judges, on account of young men coming to the bar unprepared, leaping over the barrier without adequate examination, and threatening to fill our courts with ignorance. There have been two evils under which we have been suffering—the election of judges, and the admission of lawyers without proper examination; and I think we have found out that the latter is the greater, as without a learned bar we cannot have honest and capable judges; and I have no doubt, that a man like Judge

Woodruff, well versed in the law, armed with the full panoply of science, when on the bench he met gentlemen coming before him, as they had been accustomed to come in some courts, for the purpose of having orders corrected, or papers prepared by the judge, would allow his impatience to exceed its bounds, and treat those suitors in a different light from what he would if they had presented their cases as good lawyers should. But to my knowledge, although Judge Woodruff may, in the discharge of his duties, have had an earnestness which perhaps looked to outsiders like austerity, yet beneath that there was always a great kindness of disposition; and those who, as Judge Bosworth has said, have shared the hospitality of his house and become cognizant of the under-current of his nature, have never failed to recognize the noble qualities of the man. At the time referred to by Judge Bosworth, Mr. Woodruff lived in Nineteenth street, before he moved to his late residence in Twenty-Ninth street, where, united to a lady accomplished in all particulars, and with mental characteristics corresponding to his own, with an interesting family, with a large circle of friends, by marriage and by relationship, his house was always filled, he was the centre of an enlarged hospitality, and no man ever delighted to unbend, and to make all about him happy, more than our late associate. I look back to the time when I was in the habit of being in his house, sometimes for days at a time—I look back to those as the happiest days of my life passed out of my own family. And I am always willing to respond to and endorse any remarks such as have been made by our brother Bosworth, as to the geniality and hospitality of Judge Woodruff. I have, perhaps, exceeded the bounds to which I ought to have been confined on this occasion. I only intended to say a few words here with reference to the gentleman who has been so long associated with us, so long known to the whole community, who goes down to his rest as an upright judge. His career as a lawyer has been that of an able man; his career as an individual has been that of an honest man. I never, in all my reading, found but two men, and those living at a great distance from each other, as to time, who were willing to say, as they departed from this life, ‘I am content. I have enjoyed to the full all that life affords, and I am ready for another sphere. I have had enough.’ Judge Woodruff would hardly have said that. He would rather have said that he would like to remain longer upon the bench, to linger a little longer among his life associates. He would undoubtedly have liked to continue to dispense justice some years longer, so far as his health allowed him to do so, but at the same time, as we heard yesterday, he was a man of that character that when the time came that he saw his physical usefulness was gone, he was willing to give up and say—would not say, perhaps, but would feel—‘I have done my part in this world as an honest man, as a good lawyer, as an upright judge, and I am not afraid to meet the greater Judge above.’ “

Hon. William M. Evarts then addressed the meeting, as follows:

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"Our profession has not unfrequently been called together at the close of the vacation, before renewing our service in the courts and to the community, to commemorate the loss of some distinguished lawyer or eminent judge. I am sure all of us can recall some suitable instances of this experience. Sometimes we have been criticised for assuming that there was matter of public interest in these occasions, and that our profession was distinguishable, in this regard, from other useful and honorable employments. Certainly no such observation can justly be made when the loss that we deplore is, even in a greater degree, the loss of the community, or when the lawyer whose career we celebrate was an eminent magistrate and judge. We cannot but feel that, though Judge Woodruff's life, public and eminent as it was in the general esteem, was wholly occupied in professional service, at the bar and on the bench, yet among his contemporaries who have pursued the more active or brilliant paths of political employment, few can be said, either in fact or in the recognition of the community, to have been more distinctly or more usefully public servants than he. His life was, indeed, useful, distinguished, prosperous, public, and in all that makes up the sum of human experience, whether personal, domestic, civic, or official, the full measure of prosperity in all marked his career. He gained no inconsiderable distinction at the bar, and, had he adhered to its employments, we cannot doubt, he would have added to his powers and his repute as an advocate and a counsellor. Yet there is no doubt that his preferences, no doubt that the special aptitudes of his intellect and moral character, fitted him, more especially, for that highest and most honorable employment among men, known in civilized society, that of a judge. And how fortunate he was in the adequate preparation to assume, quite early in life, and to adhere, with but slight interruptions, to the end, to this course of judicial service! Well educated, brought here at an age suitable to bear the more strenuous labors of the bar, he had

the good fortune to be associated, thus early in his professional career, with a lawyer than whom, I think I may safely say, our experience or our recollections do not recall any one possessing greater natural powers, or more completely disciplined in all the faculties of a great forensic reasoner—I mean Mr. George Wood. And brought early into such a relation, he was by that connection brought into forensic opposition to eminent lawyers older than himself, men on the same level with Mr. “Wood. When he had attracted the approval of the great leaders in the profession, by the display of his qualities of eminent fitness for the public service on the bench, he was, readily and by the consent of all, raised to that position. He first took a seat upon the bench, then and now the most ancient and venerable in our judicial history, a bench having the jurisdiction of the common law, and called by one of the favorite names of the common law, the ‘Court of Common Pleas.’ His next judicial service was as a judge of the most celebrated commercial court, perhaps, that we have ever had in this country, the superior court of the city of New York. He there filled out, by a somewhat new experience of judicial service, his preparation for the highest station in the political service of the state, a place in the court of appeals. For it seemed as if he was so well fitted to serve us as a judge, that the chances or derangements of courts or of politics were not long to deprive the community of his services. In the court of appeals, Judge Woodruff completed the round of judicial honors of the state, and by this varied experience was fully fitted for new judicial station. And when, by the defeat of his election to the court of appeals, he was thrown out of political place, and there came up a new court of great importance and dignity—the federal circuit judgeship—to be filled, by the general consent of the profession, he first occupied that eminent seat which he has just left. When he came to this new office, there was some feeling that his professional course had not made him specially familiar with the subject of federal jurisprudence, with admiralty or patent law, and not much, if at all, with revenue law. But, sir, a man as well instructed in the common law as Judge Woodruff was, by his experience at the bar and on the bench, has the best and only necessary preparation for any and all the special departments of jurisprudence. Those who have had the most experience in the round of those special employments and special jurisdictions best understand that the common law is wider and deeper, more various and more exacting in its demands and its discipline, than any specialty can ever be. And he who has proved himself to possess the great powers of legal reason, and the great diversity for judicial faculty, that the common law exacts, may well encounter untried special jurisdictions without fear. But Judge Woodruff had some personal fitness for each of these specialties that every judge does not possess. He had a very thorough and profound knowledge of mathematics, which served him in the admiralty jurisdiction and in the patent jurisdiction. He had a very thorough knowledge of the philosophies of the natural sciences, and, if he had no particular or special qualities

that should fit him for the other departments of jurisprudence, the force of his intellect was adequate for them all.

“And, yet, all of us that have known Judge Woodruff at the bar and on the bench have felt, and all of us have exhibited this feeling to-day, that his moral qualities as a judge fitly expanded and dignified a great judicial character. That he sought distinction in the profession, and desired the promotions of the bench, is an honor to him, as it would be to any one; but no man ever found him seeking elevation by any unworthy arts, or pursuing competition with his rivals by any secret or dubious means. When there was an office for which himself and his friends might justly think him suitable, he was ready to avow his disposition to accept the office, but not to run after it. To that limit of desire he always adhered. He regarded the career of human life, not as a game, but as the discharge of a duty, and the constant observance of duty through life as the highest and best success permitted to man. He relished thoroughly the full meaning of that noble proposition of the sacred Scriptures, ‘Now, if a man also strive for masteries, yet is he not crowned unless his strife be lawful.’ “

The chair announced that he had received from a gentleman who was for several years an associate with Judge Woodruff, upon the” bench, who was unable to be present at the meeting, a communication which, under the circumstances of the case, and in view of Judge Shipman’s former relations to Judge Woodruff, it had been deemed not improper should be read as a portion of the proceedings of the meeting, and be published as a part thereof. The resolutions having been unanimously adopted, on motion of Robert D. Benedict, Esq., it was voted that the following letter-of Hon. William D. Shipman be incorporated in the proceedings of the meeting:

“New York, Sept. Uth, 1875. Hon. Samuel Blatchford.—Dear Sir: Other and imperative engagements will prevent my being present at the meeting of the bar of this city, to be held to-morrow, to do honor to the memory of the late Hon. Lewis-B. Woodruff, who, for nearly six years, has occupied the high position of United States circuit judge for the second circuit; but I am unwilling to allow the occasion to pass without a brief expression of my sense of the great loss which the-bar, the bench, and the public have sustained by his death. My personal acquaintance with Judge Woodruff commenced at the date of his appointment to the office which he last held, though I had long known him by reputation, through his career-at the bar, and on the bench of the common pleas, the superior court, and the court of appeals. I knew he was an able lawyer, and an upright judge of large experience and unblemished character. But early in 1870 I was brought into close personal and official relations with him, which continued more-than three years, and gave me constant opportunity of observing his character as a man and judge. I soon came to admire his zealous and conscientious devotion to his duties, the strength of his understanding, and the never-absent labor and energy with which he discharged the constantly

pressing and heavy responsibilities of his great office. No toil or self-denial, however severe or exacting, for a moment deterred him from a thorough examination of every case which was submitted to his decision. He “fully appreciated his position, and well understood the functions of a judge to be, to administer justice according to settled rules. This was the guide to his judicial conduct, and in this he magnified his office. He had, indeed, a high sense of equity, and was always delighted when a sound conclusion was reached that would operate beneficially in the particular case before him. But he would never weaken established rules, nor unsettle the foundation of principles, in order to relieve the exceptional hardship of an isolated cause. He knew too well that both law and equity, to be of any value to an enlightened community, must be administered with steady uniformity, and to this end he spared neither time nor toil in the investigations which preceded his judgments, and in the preparation of his opinions which announced them. To this duty he brought a vigorous intellect, an enlightened reason, and a firm will. To say that he sometimes erred, is merely to pronounce him human. Judge Woodruff was a man of massive and hardy nature. He was not one to reverence overmuch the lighter graces and ornamental accomplishments of a fine gentleman. But no man ever gave a higher regard or a heartier recognition to the solid virtues which constitute the essential riches of character. Within his strong and rugged frame beat a warm, gentle, and manly heart whose sympathies were limited by no partisan or sectarian lines. He was open, frank, and generous. All who knew him will regret his departure, and mourn the loss of a just man, and an able and incorruptible magistrate. Yours, very respectfully, Wm. D. Shipman. “

The chair appointed as the committee to present the resolutions to the court of appeals and the circuit court, Messrs. Henry E. Davies, George Bliss, and Joseph H Choate.

BIOGRAPHICAL NOTES  
OF THE  
FEDERAL JUDGES

INCLUDING A BRIEF ACCOUNT OF THE PUBLIC CAREER OF ALL OF THE FEDERAL JUDGES APPOINTED PRIOR TO THE PUBLICATION OF THE FEDERAL CASES, JANUARY 25, 1894. THESE NOTES HAVE BEEN COMPILED FROM ORIGINAL HISTORICAL RESEARCHES, AND AN EXTENSIVE CORRESPONDENCE WITH THE JUDGES, RELATIVES OF DECEASED JUDGES, CLERKS OF THE UNITED STATES COURTS, AND MANY OTHERS.

ACHESON, MARCUS W. Born in Pennsylvania. Received a collegiate education. Admitted to the bar and practiced in Pittsburgh, Pa. United States district judge for the western district of Pennsylvania, commissioned Jan. 14, 1880. United States circuit judge for the third circuit, commissioned Feb. 9, 1891.

ADAMS, GEORGE. Born in Virginia, in August, 1784. Educated in his native state. United States district judge for the district of Mississippi. Commissioned Jan. 20, 1836. Resigned in 1839. Died at Jackson, Miss., Aug. 14, 1844.

ALDRICH, EDGAR, Born at Pittsburg, N. H., Feb. 5, 1848. At the age of 14 he entered the academy at Colebrook, and afterwards commenced the study of law in the office of Ira A. Ramsey. Subsequently entered the law department of the University of Michigan, graduating in March, 1868, at the age of 20. Returning to Colebrook, he was admitted to the bar of Coös county, and continued in practice alone until Jan. 1, 1882, when he formed a partnership with William H. Shurtleff, under the firm name of Aldrich & Shurtleff, which continued four years. Later he was similarly associated with James I. Parsons, and at Littleton with the Honorable George A. Bingham and others. Was twice appointed solicitor for Coos county. Was a member of the state legislature in 1884, and speaker of the house. United States district judge for district of New Hampshire, commissioned Feb. 25, 1891. M. A. Dartmouth, 1891.

ALLEN, WILLIAM J. Born in Wilson county, Tenn., June 9, 1829. Brought by his parents to Illinois the following year. Studied law at the Louisville, Ky., Law School. Admitted to the bar in 1850. Member of the legislature 1855. U. S. district attorney 1855 to 1859. Circuit judge 1859 to 1861. Representative in congress 1862 to 1865. Member of the Illinois constitutional convention of 1862 and 1870. United States district judge for the southern district of Illinois, commissioned April 18, 1887.

BAKER, JOHN H. Born in Parma township, Monroe county, New York, Feb. 28, 1832. Educated at Wesleyan University, Delaware. Ohio. Studied law, and commenced practice in Goshen, Ind., in 1857. State senator (Ind.) 1862. Representative in congress of United States, 1874. Was appointed a member of the committee on elections.

Again elected to congress in 1876-1878. Was member of committee on appropriations. United States district judge for the district of Indiana, commissioned March 29, 1892.

BALDWIN, ALEXANDER W. Born in Alabama, 1835. Studied law. Settled in Virginia City, Nev. United States district judge for the district of Nevada, commissioned March 11, 1865. Was killed in a railway accident at Alameda, Cal., Nov. 15, 1869.

BALDWIN, HENRY. Born in New Haven, Conn., Jan. 14, 1780. Was graduated at Yale in 1797. Removed to Pittsburgh, Pa. Member of congress 1817-1822. Associate



justice of the United States supreme court. Assigned to the third circuit, commissioned Feb. 11, 1830. LL. D., Yale, 1830. Author of "A General View of the Constitution." Died in Philadelphia, April 21, 1844.

BALLARD, BLAND. Practiced law in Louisville, Ky. United States district judge for the district of Kentucky, commissioned Oct. 16, 1861. Died July 29, 1879.

BARBOUR, PHILIP PENDLETON. Born in Orange county, Va., May 25, 1783. Studied law at "William and Mary. Member of legislature (Va.) 1812-1814, and of congress 1814. Speaker of the house of representatives 1821. Re-elected to congress in 1827. President of the Virginia constitutional convention in 1829. Resigned his seat in congress May 31, 1830. United States district judge for the eastern district of Virginia, commissioned Oct. 8, 1830. Associate justice of the United States supreme court, commissioned March 15, 1836. Candidate for the Democratic nomination for vice president in 1832. Died in Washington, D. C, Feb. 24, 1841.

BARNES, DAVID LEONARD. Born in Scituate, Mass., Jan. 28, 1760. After graduating at Harvard commenced the practice of law at Taunton, Mass., removing soon after to Providence, R. I. Was a member of the legislature. United States district judge for district of Rhode Island, commissioned April 30, 1801. Died at Providence, Nov. 3, 1812.

BARR, JOHN W. Born in Versailles, Ky., Dec. 17, 1826. Educated at private schools. Was graduated from the law department of the Transylvania University in 1847. Began practice in Versailles. Removed to Louisville. United States district judge for the district of Kentucky, commissioned April 16, 1880. He organized the present board of sinking fund for the city of Louisville, and served as president of the board for several years after its organization.

BASSETT, RICHARD. Born in Delaware. Member of congress 1787. Member of the federal constitutional convention 1787. United States senator 1789-1793. Presidential elector (Federalist) in 1797. Governor of Delaware 1798-1801. United States circuit judge for the third circuit, commissioned Feb. 20, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. Died in September. 1815.

BAXTER, JOHN. Born in Rutherford county, N. C, March 5, 1819, and educated there. Licensed to practice law in 1841. Member of legislature 1842, 1846, and 1852-1857. Presidential elector 1844 and 1848. Removed to Knoxville, Tenn., 1857. Member of state constitutional convention 1870. United States circuit judge for the sixth circuit, commissioned Dec. 13, 1877. Died at Hot Springs, Ark., April 2, 1886.

BEATTY, JAMES H. Born at Lancaster, and educated at Delaware, Ohio. First lieutenant of the 4th Iowa battery during the last half of the civil war. Commenced the practice of the law at Lexington, Mo., Sept., 1865. Was register in bankruptcy until removal to Salt Lake City in 1872, where he remained until his removal to Hailey, Idaho, in 1882. Chief justice of Idaho, 1889, removing to Boise City in 1890. Was a member of the terri-

torial legislature and constitutional convention of Idaho, and assistant United States attorney in Utah. United States district judge for the district of Idaho, commissioned March 7, 1891.

BEDFORD, JR., GUNNING. Born in Philadelphia, Pa., 1747. Was graduated at Princeton 1771. Aide de camp to Washington. Member of legislature, (Del.) Member of congress in 1783-1786. Member of the federal constitutional convention 1787. Presidential elector in 1789 and 1793. Attorney general of Delaware before 1789. United States district judge for the district of Delaware, commissioned Sept. 26, 1789. Died March 30, 1812.

BEE, THOMAS. Born in South Carolina 1729. Member and speaker of the colonial assembly and privy council. Member of committee of safety. In the continental congress 1780-1782. Lieutenant governor of South Carolina. United States district judge for the district of South Carolina, commissioned June 14, 1790. Ceased to be district judge in 1812. Published "Reports of the District Court of South Carolina" 1810.

BELLINGER, CHARLES B. Born at Maquon, Knox county, 111., Nov. 21, 1839. Removed to Oregon with his parents in 1847. Admitted to the bar in 1863. Member of the Oregon legislature in 1868. Served in the Modoc Indian war in 1873. Clerk of the supreme court of Oregon, 1875-1878. Judge of state circuit court of Oregon, 1878-1880. Lecturer on equity, Law School, University of Oregon, since 1889. United States district judge for the district of Oregon, commissioned April 15, 1893.

BENEDICT, CHARLES L. A resident of Brooklyn, N. Y. Studied law and practiced there. Member of legislature 1868. The first United States district judge for the eastern district of New York, commissioned March 9, 1865. Offered a position on the bench of the New York court of appeals in 1881.

BENSON, EGBERT. Born in New York city, June 21, 1746. Was graduated at Kings College (Columbia) in 1765. Member of Revolutionary committee of safety. Attorney general of New York 1777-1789. Member of legislature 1777. Member of congress 1784-1788,

1789-1793, and 1813-1815. Judge of the supreme court of New York 1794. United States circuit judge for the second circuit, commissioned Feb. 20, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. Regent of New York University 1789, 1802. LL. D., Harvard, 1808; Dartmouth, 1811. President of the New York Historical Society. Died in Jamaica, L. I., Aug. 24, 1833.

BETTS, SAMUEL ROSSITER. Born in Richmond, Berkshire county, Mass., 1787. Was graduated at Williams in 1806. Studied law in Hudson, N. Y. Served in the war of 1812, and was appointed judge advocate by Gov. Tompkins of New York. Elected to congress 1815. District attorney for Orange county, N. Y. United States district judge for the southern district of New York, commissioned Dec. 21, 1826. Retired in May, 1867. During his first 20 years on the bench it is said that no appeal was taken from any of his decisions. LL. D., Williams, 1830. Published a work on admiralty in 1838. He exerted a powerful influence upon the development of American admiralty law. Many of his decisions are now published for the first time in this work. He died in New Haven, Conn., Nov. 3, 1868.

BIGGS, ASA. Born in Williamstown, Martin county, N. O., Feb. 4, 1811. Member of the North Carolina constitutional convention of 1835; of legislature 1840-1845; of congress in 1845. One of the commissioners appointed in 1850 to prepare the Revised Code of North Carolina. Elected United States senator in 1854. Resigned in 1858. United States district judge for the district of North Carolina, commissioned May 3, 1858. Resigned April, 1861. Elected to the convention which passed the secession ordinance in May, 1861. District judge, Confederate States of America, 1861-1865. Resumed practice after the war. Died in Norfolk, Va., March 6, 1878.

BILLINGS, EDWARD COKE. Born at Hatfield, Mass., Dec. 3, 1829. Graduated at Yale in 1856. Practiced law in New York city until 1863, when he removed to New Orleans. United States district judge of the district of Louisiana, commissioned Feb. 10, 1876. LL. D., Yale, 1890. Died Dec. 2, 1893, in New Haven, Conn.

BLAIR, JOHN. Born in Williamsburg, Va., 1732. Was graduated from William and Mary College. Studied law at the Temple, London. Member of legislature 1765. Signed the nonimportation agreement in 1769. Member of committee on provisional government and of the council 1776. Judge of the Virginia court of appeals 1777, (afterwards chief justice.) Judge of the high court of chancery in 1780. Member of the federal constitutional convention in 1787, and of the Virginia convention to ratify the federal constitution. Associate justice of the United States supreme court, commissioned Sept. 30, 1789. Resigned Jan. 27, 1796. Died in Williamsburg, Va., Aug. 31, 1800.

BLAND, THEODORICK. Born in 1777. Judge of the county court of Baltimore. United States district judge for the district of Maryland, commissioned Nov. 23, 1819.

Ceased to be district judge, June 5, 1824. Chancellor of Maryland for 22 years. Died at Annapolis, Md., Nov. 16, 1846. Published Maryland Chancery Reports, (1826-1841.)

BLATCHFORD, SAMUEL. Born in New York, March 9, 1820. Was graduated at Columbia in 1837. Private secretary to Gov. Seward 1839-1841. Admitted to the bar in 1842. Settled in Auburn as law partner of William H. Seward and Christopher Morgan in 1845. Removed to New York city 1854. Declined a place on the state supreme bench in 1855. United States district judge for the southern district of New York, commissioned May 3, 1867. United States circuit judge for the second circuit, commissioned March 4, 1878. Associate justice of the United States supreme court, commissioned March 22, 1882. Assigned to the second circuit Died July 7, 1893. Published Blatchford's Circuit Court Reports, (second circuit.) Trustee of Columbia since 1867.

BLODGETT, HENRY WILLIAM. Born in Amherst, Mass., July 21, 1821. Removed to Illinois about 1831. Studied law in Chicago with Jonathan Y. Scammon and Norman B. Judd. Admitted to the bar 1845. Practiced in Waukegan, Ill. Member of legislature 1852, (Free-Soil.) Counsel of the Chicago & Northwestern Railroad 1855. President and attorney of the Chicago & Milwaukee Railroad. United States district judge for the northern district of Illinois, commissioned Jan. 11, 1870. Retired Dec. 5, 1892, to become counsel before Bering Sea Arbitration Commission at Paris 1892 and 1895.

BOARMAN, ALECK. Born in Yazoo City, Miss., Dec. 10, 1839. Educated at the Kentucky Military Institute. Studied law. Officer in the Confederate army. Began practice in 1866. Settled in Louisiana. Member of the forty-second congress. Judge of the. state district court United States district, judge for the western district of Louisiana, commissioned May 18, 1881. Resides at Shreve-port.

BOICE, HENRY. United States district judge for the western district of Louisiana, commissioned May 9, 1849. Ceased to be district judge, Jan. 21, 1861. Died about 1866.

BOND, HUGH LENNOX. Born in Baltimore, Md., Dec. 16, 1828. Removed to New York city. Was graduated from the University of the City of New York in 1848. Studied law with Dobbin & Talbot, of Baltimore. Admitted

to the bar in 1851. Judge of the Baltimore criminal court 1860-1888. United States circuit judge for the fourth circuit, commissioned July 13, 1870. Died Oct. 24, 1893. Among the noted trials in which Judge Bond presided were the Ku Klux Cases, in South Carolina, the Virginia Coupon Cases, and the Navassa Murder Cases.

BOURN, BENJAMIN. Born in Bristol, B. L., Sept. 9, 1755. Was graduated at Harvard 1775. Studied law and practiced at Providence, R. I. Quartermaster of the second Rhode Island regiment in 1776. Member of congress 1790. Resigned 1796. United States district judge for the district of Rhode Island, commissioned Oct. 13, 1796. United States circuit judge for the first circuit, commissioned Feb. 20, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. Died Sept. 17, 1808.

BOYLE, JOHN. Born in Botecourt county, Va., Oct. 28, 1774. Educated in Kentucky, Began practice in Lancaster 1797. Member of congress 1803-1809. Declined the governorship of Illinois territory. Judge of the Kentucky court of appeals. Chief justice of that court 1810-1826. United States district judge for the district of Kentucky, commissioned Oct. 20, 1826. Died Jan. 28, 1834.

BOYNTON, THOMAS JEFFERSON. Born in Amhersttownship, Lorain county, Ohio, Aug. 31, 1838. Educated in the common schools of his native place. Studied law with Hon. Philemon Bliss, and began practice at St. Joseph, Mo., in 1858. Appointed United States district attorney for the southern district of Florida in 1861. United States district judge for the southern district of Florida, commissioned Oct. 19, 1863. Resigned in 1870. Died in New York City in May, 1871.

BRADFORD, EDWARD G. Born in Maryland. Settled in Wilmington, Del. Member of state legislature in 1849. Deputy attorney general for several years. Appointed United States district attorney for Delaware in 1861. Resigned in 1866. United States district judge for the district of Delaware, commissioned Dec. 12, 1871. Died Jan. 16, 1884.

BRADLEY, JOSEPH P. Born in Berne, Albany county, N. Y., March 14, 1813. Was graduated at Rutgers in 1836. Studied law with Arthur Gifford, Esq., of Newark, N. J. Admitted to the bar 1839. Practiced in Newark 1840-1870. Argued the New Jersey Bridge Case in the United States supreme court in 1860. Candidate for congress 1862. Presidential elector 1868. Lecturer in Rutgers College on political economy and constitutional law. LL. D., Lafayette, 1859. Associate justice of the United States supreme court, commissioned April 4, 1870. Assigned to the third circuit, Dec. 21, 1880. Member of the electoral commission in 1877. He married in 1844 Miss Mary Hornblower, daughter of the chief justice of New Jersey. He died Jan. 22, 1892.

BRAWLEY, WILLIAM H. Born in South Carolina, in 1841. Was graduated at the South Carolina College in 1860. Attended lectures at the College de France, in Paris, 1865. Admitted to the bar in 1866. Was solicitor (prosecuting attorney) for the sixth circuit for two terms, resigning in 1874. Was a member of the state legislature for eight

years. Was a member of the 52d and 53d congresses of United States. Resigned upon being appointed United States district judge for the district of South Carolina, commissioned Jan. 18, 1894.

BREARLY, DAVID. Born near Trenton, N. J., June 11, 1745. Practiced law in Allentown, N. J. He was once arrested for treason in the excitement of the ante-Revolutionary troubles. Member of the first constitutional convention of New Jersey. Lieutenant in a New Jersey regiment in the Revolution. Chief justice of New Jersey 1779-1789. Member of the federal constitutional convention 1787. President of the New Jersey convention which ratified the federal constitution 1788. Presidential elector 1789. United States district judge for the district of New Jersey, commissioned Sept. 26, 1789. One of the compilers of the Episcopal prayer book in 1785. Died in Trenton, Aug. 16, 1790.

BREWER, DAVID JOSIAH. Born in Smyrna, Asia Minor, June 20, 1837. Studied for a time at Wesleyan. Graduated from Yale in 1856. Studied law for a time with his uncle, David Dudley Field, of New York city. Was graduated from the Albany Law School, and admitted to the New York bar in 1858. Removed to the west the same year, and settled in Leavenworth, Kan. United States commissioner 1861-1864. Judge of probate and of Leavenworth county criminal court 1863-1865. Judge of first judicial district of the state 1865-1869. County attorney 1869-1871. Judge of the Kansas supreme court 1871-1884. United States circuit judge for the eighth circuit, commissioned March 31, 1884. Associate justice of the United States supreme-court, commissioned Dec. 20, 1889. LL. D., Iowa College, 1884; Washburn, 1890; Yale, 1891.

BRISTOL, WILLIAM. Born in Hamden, Conn., 1779. Was graduated at Yale 1798. Admitted to the bar and practiced in New Haven, Conn. Was at one time mayor of New Haven. Was United States district attorney about 1812. Judge of the state superior court 1819-1826. United States district judge for the district of Connecticut, commissioned May 22, 1826. Died in New Haven, March 7, 1836.

BROCKENBROUGH, JOHN WHITE. Born in Virginia, Dec. 23, 1806. United States district judge for the western district of Virginia,

commissioned Jan. 14, 1846. Resigned June, 1861, on the secession of Virginia. Was elected a member of peace congress by the legislature. Was a member of the Confederate congress. For many years was professor at Washington and Lee University. Also conducted a law school at Lexington, Va. Died Feb. 20, 1877.

BRONSON, ISAAC H. Born in Rutland, N. Y., Oct 16, 1802. Admitted to the bar in 1822. Practiced in Watertown, N. Y. Member of congress 1836; chairman of committee on territories. Judge of territorial court of Florida 1838. United States district judge for the district of Florida, commissioned Aug. 8, 1846. United States district judge for the northern district of Florida, commissioned Feb. 23, 1847. Died at Palatka, Fla., Aug. 13, 1855.

BROOKS, George W. Born in Elizabeth City, N. C, March 16, 1821. Educated at the high school of Gates county. At the age of 21 was appointed clerk of the superior court of Pasquotank county. While in that office he read law under the direction of Charles R. Kenney. Admitted to the bar in 1845. Represented his county in the house of commons at the session of 1852-1853. In 1861 he opposed the secession of his state, and during the civil war was a prominent Unionist. United States district judge of the district of North Carolina, commissioned Aug. 19, 1865. He was a member of the reconstruction convention in 1866. Died January 6, 1882, at his home in Elizabeth City.

BROWN, ADDISON. Born at West Newbury, Mass., Feb. 21, 1830. Was graduated at Harvard in 1852, and from the Harvard Law School in 1854. Removed to New York city. Admitted to the bar 1855. United States district judge for the southern district of New York, commissioned June 2, 1881.

BROWN, HENRY BILLINGS. Born at South Lee, Berkshire county, Mass., March 2, 1836. Was graduated at Yale in 1856. Admitted to the bar in Detroit, Mich., 1860. United States deputy marshal 1861. United States district attorney 1863-1868. Circuit judge for Wayne county, Mich., 1868. United States district judge for the eastern district of Michigan, commissioned March 19, 1875. Associate justice of the United States supreme court, commissioned Dec. 31, 1890. Compiler of Brown's Admiralty Reports. LL. D., University of Michigan, 1887; Yale, 1891. Lecturer on admiralty law in the law department of the University of Michigan, 1888.

BROWN, MORGAN W. Native of Tennessee. Was editor of one of the leading papers at Nashville. Is brother of W. L. Brown, judge of supreme court. United States district judge for the eastern and western districts of Tennessee, commissioned Jan. 3, 1834. United States judge for the eastern, middle, and western districts of Tennessee, commissioned Jan. 18, 1839. Ceased to be district judge, March 6, 1853.

BRUCE, JOHN. Born in Sterlingshire, Scotland, Feb. 16, 1832. Removed to Wayne county, Ohio, 1840. Was graduated from Franklin College, Ohio, in 1854. Removed to Iowa. Admitted to the bar 1856. Practiced at Keokuk as the partner of Hon. Geo. W.

McCrary, later a circuit judge. Brevet brigadier general in the Union army. Settled in Alabama as a cotton planter. Member of legislature 1872 and 1874. United States district judge for the district of Alabama, commissioned Feb. 27, 1875.

BRYAN, GEORGE S. Born at Charleston, S. C, May 21, 1809. Educated in his native city. Was lieutenant of the Volunteer Troops of the Florida war of 1836. Trustee of public schools of Charleston, high school of Charleston, Charleston College, Charleston Library, and Carolina Art Association. United States" district judge for the district of South Carolina, commissioned March 12,1866. Resigned Sept 5, 1886. Died at Flat Rock, S. C, Sept. 28, 1895.

BRYANT, DAVID E. Born in La Rue county, Ky., Oct. 19, 1849. Moved with his parents to Grayson county, Tex., in Jan., 1853. Was graduated from Trinity College, N. C, in June, 1871. Returning to Grayson county, was admitted to the bar, and commenced the practice of law in Oct., 1873. United States district judge for the eastern district of Texas, commissioned May 28,1890.

BUFFINGTON, JOSEPH. Born at Kittanning, Armstrong county, Pa., Sept 5, 1855. Entered Trinity College, Hartford, Conn., in 1871, and graduated in 1875. Studied law in his native town, and was admitted to the bar in 1878. United States district judge for the western district of Pennsylvania, commissioned Feb. 23,1892.

BUGBEE, JOHN S. Born May 31, 1840, at Sackville, N. B. Removed in early life to Boston. Admitted to practice in the superior court of Massachusetts, July 19, 1862. Removed to San Francisco, and admitted to practice in supreme court of California. Oct., 1882. Assistant city and county attorney of San Francisco, 1885-1886. United States district judge for district of Alaska, commissioned Dec. 7,1889. Served till April 21,1892. Practices law at Juneau, Alaska.

BULLOCK, JONATHAN RUSSELL. Born in Bristol, R. I., Sept. 6, 1815. Was graduated at Brown in 1834. Studied law in his father's office. Admitted to the bar 1836. Practiced in Alton, Ill., until 1843. Returned to Rhode Island. Appointed collector in 1849. Member of legislature 1844-1846. Member of the state senate 1859. Lieutenant governor



1860. Member of special commission to adjust accounts between Rhode Island and the United States 1861. Judge of the state supreme court 1862. United States district judge for the district of Rhode Island, commissioned Feb. 11, 1865. Resigned in Sept., 1869.

BUNN, ROMANZO. Born in South Hartwick, Otsego county, N. Y., Sept. 24, 1829. Removed to western New York in 1832, and to Wisconsin in 1854. Educated at a common school and at Springville Academy, N. Y. Studied law. Admitted to the bar in 1863. Practiced at Ellicottville, N. Y. District attorney in Trempealeau and Monroe counties, Wis. Member of the legislature in 1860. Prom 1869 to 1877 circuit judge of the sixth circuit, Wis. United States district judge for the western district of Wisconsin, commissioned Oct. 30, 1877.

BUSTEED, RICHARD. Born in Cavan, Ireland, Feb. 16, 1822. His father, a barrister in Dublin, emigrated to Canada, and later to the United States. The son worked on a newspaper in New York. Was a local preacher in the Methodist Church. Admitted to the bar in 1846. Corporation counsel of New York city 1856-1859. Brigadier general of volunteers in 1862. Resigned March 10, 1863. United States district judge for the district of Alabama, commissioned Nov. 17, 1863. Decided the test oath as to attorneys in federal courts unconstitutional, which the supreme court affirmed. Resigned Oct. 20, 1874, and resumed practice in New York city.

BUTLER, WILLIAM. Born in Chester county, Pa., Dec. 22, 1822. Attended the schools of the county until 15 years of age, when he entered the office of the Village Record, a newspaper published in West Chester, where he remained until his nineteenth year, when he purchased an interest in the Norristown Herald and Free Press. While assisting to edit and publish this paper he studied law, and was admitted to the bar in December, 1845, returning soon afterwards to West Chester. Was elected district attorney in 1856; president judge for the 15th judicial district of Pennsylvania in 1861. Re-elected in 1871. United States district judge for the eastern district of Pennsylvania, commissioned Feb. 19, 1879.

BYRD, CHARLES WILLING. Born at Westover, on the James river, below Richmond, July 26, 1770. Was a grandson of Col. William Byrd, founder of the city of Richmond. His father dying in 1777, he was sent to Philadelphia, where he was placed in charge of relatives, and where he received his education and early training. In 1794 he went to Kentucky as the agent of Robert Morris, and located at Frankfort, where he engaged in the practice of law, and also at Lexington, and is said to have been successful. Removed to Cincinnati, Ohio, in 1799, when he was appointed secretary of the Northwest Territory by President Adams, his commission being dated Dec. 1, 1799. Was a member of the first constitutional convention in Ohio, and the second governor of that state. United States district judge for the district of Ohio, commissioned March 3, 1803,

which position he held until his decease, Aug. 11, 1828. Is said to have been a personal friend of Thomas Jefferson.

CADWALADER, JOHN. Born in Philadelphia, Pa., April 1, 1805. Was graduated at the University of Pennsylvania 1821. Studied law with Horace Binney. Admitted to the bar 1825. His kinsman, Nicholas Biddle, then president of the United States Bank, gave him the place of solicitor for that institution. Member of congress (Democrat) 1855-1857. United States district judge for the eastern district of Pennsylvania, commissioned April 24, 1858. Died in Philadelphia, Jan. 26, 1879. LL. D., University of Pennsylvania, 1870.

CALDWELL, ALEXANDER. United States district judge for the western district of Virginia, commissioned Oct. 28, 1825. Died in Wheeling, Va., (W. Va. ) April 8, 1839.

CALDWELL, HENRY CLAY. Born in Marshall county, Va., Sept. 4, 1832. Educated at common schools in Iowa. Studied law in Keosauque, Iowa. Admitted to the bar 1852. Prosecuting attorney of Van Buren county, Iowa, 1856-1858. Member of legislature 1859-1861. Colonel of volunteers during the Civil War. Resigned June 4, 1864. United States district judge for the eastern and western districts of Arkansas, commissioned June 20, 1864. United States district judge for the eastern district of Arkansas, commissioned March 3, 1871. United States circuit judge for the eighth circuit, commissioned March 7, 1890.

CAMPBELL, JOHN ARCHIBALD. Born in Washington, Wilkes county, Ga., June 24, 1811. Was graduated at the University of Georgia in 1826. Admitted to the bar while still a minor in 1829, by special act of the legislature. Practiced in Montgomery, Ala. Member of legislature. Associate justice of the United States supreme court, commissioned March 22, 1853. Assigned to the fifth circuit Resigned May 21, 1861. Opposed secession. Secretary of war for the Confederate States, and peace commissioner on their behalf in 1865. After the war he was arrested and confined in Ft Pulaski. Released on parole. Practiced in New Orleans.

CAMPBELL, JOHN WILSON. Born in Augusta county, Va., Feb. 23, 1783. His patents removed with him to Ohio. Received a common school education, was admitted to the bar in 1808, and began practice in West Union, Ohio. Prosecuting attorney for Adams county and Highlands county. Member of legislature. Member of congress 1817-1827.

United States district judge for the district of Ohio, commissioned March 7, 1829. Died in Delaware county, Ohio, Sept. 24, 1833.

CARPENTER, GEORGE MOULTON. Born at Portsmouth, R. I., April 22, 1844. Was graduated at Brown in 1864. Reporter for newspapers and in the courts. Studied law. Admitted to the bar in 1867. Practiced in Providence, R. I. Commissioner to revise the laws of the state in 1880. Justice of the state supreme court 1882. United States district judge for the district of Rhode Island, commissioned Dec. 18, 1884.

CATRON, JOHN. Born in Wythe county, Va., 1778. Educated in common schools. Removed to Tennessee in 1812. Studied law there. Served in the New Orleans campaign under Jackson. Elected state attorney by the legislature. Removed to Nashville. Chosen to the supreme bench of the state in 1824. Chief justice 1830-1836. Associate justice of the United States supreme court, commissioned March 8, 1837. Assigned to the eighth circuit Assigned to the sixth circuit, March 10, 1863. Opposed secession, and had to leave the state. Held the office until his death, May 30, 1865.

CHASE, SALMON PORTLAND. Born in Cornish, N. H., Jan. 13, 1808. Was in the family of his uncle (bishop of Ohio) 1820-1823. Returned to New Hampshire 1823. Was graduated from Dartmouth in 1826, and established a classical school in Washington, D. C, studying law with William Wilt, Esq. Admitted to the bar 1830. Practiced in Cincinnati. Joined the liberty party in 1841. Famous for defending fugitive slaves. Chairman of the Free-Soil party convention at Buffalo in 1848. Elected to the United States senate in February, 1849, by Democratic and Free-Soil coalition. Elected governor of Ohio 1855; re-elected 1857. Candidate for Republican presidential nomination at Chicago in 1860. United States senator in 1860. Appointed secretary of the treasury March 4, 1861. Resigned June 30, 1864. Member of the peace commission in 1861. Chief justice of the United States supreme court, commissioned Dec. 6, 1864. Assigned to the fourth circuit Presided over the impeachment trial of President Johnson in 1868. Mentioned for the Democratic presidential nomination in 1868. Died May 7, 1873.

CHASE, SAMUEL. Born in Somerset county, Md., April 14, 1741. Studied law at Annapolis. Admitted to the bar in 1761. Member of colonial legislature. Prominent in the stamp-act agitation. Member of congress 1774-1778. Signer of Declaration of Independence. United States commissioner to Canada with Franklin and Carrol. Delegate to England from Maryland in 1783 to recover certain moneys from the Bank of England. Removed to Baltimore in 1786. Chief justice of the criminal court of Baltimore in 1788. Member of the Maryland convention to ratify the federal constitution, which he thought not democratic enough. Chief justice of the general court of Maryland 1791. Associate justice of the United States supreme court, commissioned Jan. 27, 1796. Assigned to the old middle circuit, July 1, 1802. He held this office until his death. He was impeached in 1804, by the house of representatives, under the leadership of John Randolph. Acquitted

by the senate (the two thirds requisite for conviction not being obtained) March 5, 1805. The grounds of the impeachment were his conduct in the trials of Fries and Callender for sedition four years before, and a charge delivered to the grand jury for the district of Maryland. He was of imperious temper, and given to express his political opinions on the bench. Died June 19, 1811.

OHIPMAN, NATHANIEL. Born in Salisbury, Conn., Nov. 15, 1753. Was graduated from Yale in 1777. Lieutenant in the Revolutionary army. Resigned 1778, and removed to Litchfield, Conn. Admitted to the bar 1779, and removed to Tinmouth, Vt. Member of legislature 1784-1785. Judge of state supreme court 1786. Chief justice 1789. Commissioner on behalf of Vermont to adjust differences with New York 1789, and to negotiate for admission of Vermont to the Union 1791. United States district judge for the district of Vermont, commissioned March 4, 1791. Resigned 1793. Chief justice of the state supreme court 1796. United States senator 1797-1803. Member of legislature 1806-1811. Censor 1813. Chief justice of the state supreme court 1813-1815. Professor of law at Middlebury from 1816 until his death, in Tin-mouth, Vt, Feb. 15, 1843. Published "Sketches of the Principles of Government," and "Reports and Dissertations."

CHOATE, WILLIAM GARDNER. Born at Salem, Mass., Aug. 30, 1830. Was graduated from Harvard in 1852, and from the Dane Law School in 1854. United States district judge for the southern district of New York, commissioned March 25, 1878. Resigned June 2, to take effect June 6, 1881. Resumed practice in New York city.

CLARK, DANIEL, Born in Stratham, Rockingham county, N. H., Oct 24, 1809. Was graduated at Dartmouth in 1834. Began practice in 1837 at Epping, N. H., where he had studied law. Removed to Manchester, N. H., 1839. Member of legislature 1842. United States senator 1857. Resigned July, 1866. President pro tern, of the senate 1864-1865. United States district judge for the district of New Hampshire, commissioned July 27, 1866. President of the New Hampshire constitutional convention of 1876. Died Jan. 2, 1891.

CLAY, JR., JOSEPH. Born in Savannah, Ga., Aug. 16, 1764. Was graduated from

Princeton at the head of his class in 1784. Studied law in Savannah. United States district judge for the district of Georgia, commissioned Sept. 16, 1796. Resigned May, 1801. United States circuit judge for the fifth circuit, commissioned Feb. 24, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. Professed religion and joined the Baptist Church in 1803. Ordained to the ministry 1804. Pastor of the First Baptist Church of Boston, Mass., 1807. Died in Boston, Jan. 11, 1811.

CLIFFORD, NATHAN. Born in Rumney, Grafton county, N. H., Aug. 18, 1803. Educated in Haverhill, N. H., Academy, and Hampton Literary Institution. Practiced in York county, Me., 1827. Member of legislature 1830-1834. Speaker 1832-1834. Attorney general of Maine 1834-1838. Member of congress 1838-1843. Attorney general of the United States 1846. Minister to Mexico to arrange a treaty of peace, Sept. 6, 1849. Resumed law practice in Maine. Associate justice of the United States supreme court, commissioned Jan. 12, 1858. Assigned to the first circuit. President of the electoral commission in 1877. Died in Cornish, Me., July 25, 1881. Published Circuit Court Reports for the first circuit, (Boston, 1869.)

COLT, LE BARON BRADFORD. Born in Dedham, Mass., June 25, 1846. Was graduated at Yale in 1868, and at the Columbia Law School in 1870. Admitted to the bar of New York 1870. Practiced in Chicago. Removed to Bristol, R. I., in 1875. Member of legislature 1879-1881. United States district judge for the district of Rhode Island, commissioned March 21, 1881. United States circuit judge for the first circuit, commissioned July 5, 1884.

CONKLING, ALFRED. Born in Suffolk county, N. Y., Oct. 12, 1789. Was graduated from Union College in 1810. Admitted to the bar 1812. District attorney for Montgomery county. Member of congress 1812-1823. Removed to Albany. United States district judge for the northern district of New York, commissioned Dec. 14, 1825. Resigned Aug. 6, 1852, to accept the position of minister to Mexico. Settled in Geneseo, 1864. LL. D., Union, 1847. Died in Utica, N. Y., Feb. 5, 1874. Author of treatises on "United States Courts," on "Admiralty," on "Executive Powers," and of the "Young Citizens' Manual."

COXE, ALFRED CONKLING. Born in Auburn, N. Y. Was graduated at Hamilton College in 1868. Admitted to the bar in 1868. Practiced in Utica, N. Y., in partnership with Senator Roscoe Conkling and Ex-Judge Sidney T. Holmes. Appointed in 1880, by the governor of New York, one of the managers of Utica State Hospital. United States district judge for the northern district of New York, commissioned May 4, 1882. He is a grandson of Judge Alfred Conkling, of the same court. Is lecturer at Cornell University on the law of shipping and admiralty.

CRANCH, WILLIAM. Born in Weymouth, Mass., July, 1769. Was graduated at Harvard in 1789. Admitted to the bar in 1790. Practiced in Braintree and Haverhill, Mass. Removed to what is now Washington, D. C., in October, 1794. His kinsman, Pres-

ident John Adams, appointed him judge of the circuit court for the District of Columbia, commissioned March 3, 1801. Chief judge of the same court, commissioned Feb. 24, 1806. He published nine volumes of United States Supreme Court Reports and six volumes of Circuit Court Reports. He also prepared a Code for the District of Columbia, and published a memoir of John Adams, (1827.) He died in Washington, D. C. Sept. 11, 1855.

CRAWFORD, WILLIAM. Born in Virginia in 1767. Was graduated at William and Mary College. Removed to Alabama in 1810. Was receiver of public moneys, and had charge of the United States land office at St Stephens, Ala. Was United States district attorney at Mobile. United States district judge for the districts of Alabama, commissioned May 22, 1826. Died April 28, 1849. He was author of a work on "Equity Jurisprudence."

CREIGHTON, JR., WILLIAM. Born in Berkeley county, Va., Oct. 29, 1778. Was graduated from Dickerson College, Pa., with distinction, 1795. Studied law in Martinsburgh, Va., and in 1797 visited the Northwest Territory. Settled at Chillicothe, Ohio, in 1799, where he was admitted to practice law. Was secretary of state of Ohio. Elected by the general assembly, March 5, 1803. Re-elected in 1805. Resigned Dec. 8, 1808. Was United States attorney for the district of Ohio in 1808. In 1814 was elected to the thirteenth congress. Was re-elected to the fourteenth congress in 1816, and to the twentieth congress in 1824. Also re-elected to the twenty-first and to the twenty-second. United States district judge for the district of Ohio, commissioned Nov 1, 1828. His term of office expired Dec. 31st of the same year, his nomination having failed of confirmation. Died Oct. 1, 1851. As secretary of state was designer of the great seal of the state. He was a brother-in-law of his predecessor, Judge Byrd, in the office of district judge.

CURTIS, BENJAMIN BOBBINS. Born in Watertown, Mass., Nov. 4, 1809. Was graduated at Harvard in 1829. Practiced in Northfield, Mass. Removed to Boston, and attended the Harvard Law School. Member of legislature, (Whig.) Associate justice of the United States supreme court, commissioned Sept. 22, 1851. Assigned to the first circuit. He wrote a dissenting opinion in the famous Dred Scott Case. Resigned Sept 30, 1857, and practiced in Boston. Counsel for President Johnson in the impeachment trial,

1868. Died at Newport, R. I., Sept. 15, 1874. He published "Decisions of the United States Supreme Court," (an abridgment of the official reports.) A memoir and a volume of his writings have been published by his brother, George Ticknor Curtis.

CUSHING, WILLIAM. Born in Scituate, Mass., March 1, 1732. Was graduated at Harvard in 1751. Studied law with Jeremy Gridley. Attorney general of Massachusetts. Judge of probate for Lincoln county, Mass., (Me.) 1768. Judge of Massachusetts superior court in 1772. Chief judge 1777. Chief justice of Massachusetts under the state constitution 1780. Associate justice of the United States supreme court, commissioned Sept 27, 1789. Assigned to the eastern circuit, July 1, 1802. Commissioned chief justice 1796, but declined. Vice president of Massachusetts convention to ratify the federal constitution, 1788. Founder of the American Academy of Arts and Sciences. Died in Scituate, Sept. 13, 1810.

CUYLER, JEREMIAH. Born in Savannah, Ga., June 4, 1768. United States district judge for the district of Georgia, commissioned June 12, 1821. He was one of those that welcomed La Fayette to Savannah. He laid the corner, stone for Nathaniel Greene's monument. Died in Savannah, May 6, 1839.

DALLAS, GEORGE M. Born at Pittsburg, Pa., Feb. 7, 1839, but always resided in Philadelphia. He studied law with St. George Campbell, Esq., and was admitted to the bar, Oct. 13, 1860. Was a delegate at large to the constitutional convention which framed the existing constitution of Pennsylvania, and served upon the committees on the judiciary and on legislation. United States circuit judge of the third circuit, commissioned March 17, 1892. Professor of law of torts, evidence, and practice in law department, University of Pennsylvania.

DANIEL, PETER VIVIAN. Born in Stafford county, Va., April 24, 1784. Was graduated at Princeton in 1805. Studied law in the office of Edmund Randolph, whose daughter he married in 1811. Admitted to the bar in 1808. Member of legislature. Member of Virginia privy council 1812-1835. Lieutenant governor of Virginia. Declined the place of attorney general of the United States, offered him by President Jackson. United States district judge for the district of Virginia, commissioned April 19, 1836. Associate justice of the United States supreme court, commissioned March 3, 1841. Assigned to the ninth circuit, March 3, 1845. Ceased to be circuit justice, May 31, 1860. Died in Richmond, Va., June 30, 1860.

DAVIES, WILLIAM. Born in Savannah, Ga., July 8, 1775. Educated at the public schools, and at first was a clerk in a commercial house. Studied law in the office of Judge Stephens. Represented Liberty county in the state legislature. Received the highest municipal honors in Savannah, and frequently represented Chatham county in both branches of the legislature. Impaired health compelled him to retire from the labors of private practice. United States district judge for the district of Georgia, commissioned Jan. 14, 1819.

Resigned in June, 1821, to actively engage in the practice of law. Was chosen to preside in the eastern judicial district of his state in 1828. Died April 30, 1829.

DAVIS, DAVID. Born in Cecil county, Md., March 9, 1815. Was graduated at Kenyon College, Ohio, 1832. Studied law in Massachusetts and at Yale. Removed to Illinois. Practiced in Bloomington. Elected to the legislature 1844. Member of the state constitutional convention 1847. State circuit judge 1848. Resigned October, 1862. Member of Republican nominating convention 1860, and accompanied Lincoln to Washington. Associate justice of the United States supreme court, commissioned Oct. 17, 1862. Assigned to the eighth circuit, March 10, 1863. Assigned to the seventh circuit, April 8, 1867. Administrator of Lincoln's estate. Held with minority of the court, in 1870, that the legal tender acts were constitutional. Candidate for the Liberal Republican nomination, and received the Labor Reform (Greenback) nomination in 1872, but withdrew from the canvass. Resigned from supreme bench to take his seat in the United States senate, March 4, 1877. President pro tem, of the senate 1881. Resigned 1883, and retired to Bloomington, Ill., where he died, June 26, 1886.

DAVIS, JOHN. Born in Plymouth, Mass., Jan. 25, 1761. Was graduated at Harvard, 1781. Tutor in the family of General Otis. Began practice in Plymouth, Mass., 1786. Member of the legislature. Member of the Massachusetts convention to ratify the federal constitution. Comptroller of the United States treasury 1795. United States district attorney for Massachusetts 1796. United States judge for the district of Massachusetts, commissioned Feb. 20, 1801. Retired July, 1841. Died in Boston, Jan. 14, 1847. Author of addresses, etc., and editor of "Morton's Memorial of New England."

DAWNE, EDWARD J. United States district judge for the district of Alaska, commissioned Aug. 28, 1885. Ceased to be judge, Dec. 3, 1885. Was never confirmed by the senate.

DAWSON, LAFAYETTE. Born in McLean county, Ill., where he was educated. Removed to Maryville, Mo., in 1866, where he commenced the practice of law. United States judge for the district of Alaska, commissioned Dec. 3, 1885. Ceased to be district judge, Aug. 25, 1888. Later published a digest or pamphlet of his decisions. Died in Maryville, Mo., Jan. 29, 1897.



DEADY, MATTHEW P. Born near Eastern, Talbot county, Md., May 12, 1824. Removed to Virginia, and thence to Ohio. Educated at Barnesville Academy. Admitted to the bar in Ohio 1847. Removed to Oregon 1849. Taught and practiced there. Member of legislature in 1850. President of the upper house 1851. Associate justice of the territorial supreme court 1853. President of state constitutional convention 1857. On the admission of Oregon to the Union he was appointed district judge for the district of Oregon, commissioned March 9, 1859. Prepared the Codes of the state in 1862-1864. Published the general laws of the state 1865. Assisted in the same work 1874. Died March 24, 1893.

DELAHAY, MARK W. Born June 24, 1817, near Easton, Talbot county, Md. Educated at Easton Academy, and inherited quite a fortune from his parents. Emigrated to Illinois in 1838, locating at Naples. Removed to Winchester, Ill. Entered the law office of John P. Jordan. Subsequently engaged at Virginia, Cass county, Ill. During the Mormon war he held a commission as captain under John J. Hardin. Removed to Leavenworth, Kan., in 1855. Practiced law and edited the Kansas Territorial Register. Was appointed surveyor general of Kansas and Nebraska in 1861. Was chief clerk of the territorial legislature of Kansas in 1860. District judge for the district of Kansas, commissioned Oct. 6, 1863, which office he held until his resignation, Dec. 10, 1873. Died May 9, 1879, at Kansas City, Mo.

DICK, JOHN. A citizen of Louisiana. United States district judge for the district of Louisiana, commissioned March 2, 1821. Died at New Orleans, April 23, 1824.

DICK, ROBERT P. Born in Greensboro, N. C, Oct. 5, 1823. Graduated from the University of North Carolina in 1843. Admitted to the bar 1846. District attorney for the district of North Carolina 1853-1861. Member of the state constitutional conventions of 1861 and 1865. Member of council of state 1861-1864. Member of state senate 1864-1865. Associate justice of the state supreme court 1868-1872. United States district judge for the western district of North Carolina, commissioned June 7, 1872 LL. D., University of North Carolina, 1869, and 1889.

DICKERSON, MAHLON. Brother of Judge Philemon Dickerson. Born in Hanover county, N. J., April 17, 1770. Was graduated at Princeton 1789. Admitted to the bar 1793, and practiced in Philadelphia. Quartermaster general of Pennsylvania 1805-1808. Recorder of the city court of Philadelphia 1808-1810. Returned to New Jersey. Judge of New Jersey supreme court and chancellor. Member of the legislature 1814. Governor 1815. United States senator 1817-1833. Secretary of the navy 1834-1838. United States district judge for the district of New Jersey for a few months. commissioned July. 23, 1840. Member of the-state constitutional convention 1844. Died 1853.

DICKERSON, PHILEMON. Born in Morris county, N. J., 1788. Received a liberal education. Practiced law in Paterson, N. J. Member of congress 1833. Resigned to accept governorship of New Jersey, 1836. Again elected to congress 1838. United States district

judge for the district of New Jersey, commissioned March. 2, 1841. Died in Paterson, Dec. 10, 1862.

DILLON, JOHN FORREST. Born in Montgomery county, N. Y., Dec. 25, 1831. Removed to Iowa. Was graduated in medicine at Iowa University, and practiced six months. Studied law. Admitted to the bar 1852. Prosecuting attorney 1852. State district judge 1858. Twice elected judge of the state supreme court. United States circuit judge for the eighth circuit, commissioned Dec. 22, 1869. Resigned Sept 1, 1879, and accepted a professorship in Columbia Law-School, which he held for three years. Practiced in New York City. Author of treatises on "Municipal Corporations," "Removal of Causes," and "Municipal Bonds;" also of Circuit Court Reports (eighth circuit); "Laws and Jurisprudence of England and America," being a series of lectures in Yale University. Member of L'Institute Detroit International, and of the Association for the Reform and Codification of the Law of Nations. Resides in New York City.

DRAYTON, JOHN. Born in South Carolina, 1766. Son of William Henry Drayton, the Revolutionary statesman. Educated at Princeton and in England. Practiced law in Charleston, S. C. Lieutenant governor in 1798. Governor in 1800 and 1808-1810. South Carolina College was established under his governorship. United States district judge for the district of South Carolina, commissioned May 7, 1812. Died in Charleston, in November, 1822. Author of "Memoirs of William Henry Drayton," (his father,) "A Tour through the Northern and Eastern States," and "A View of South Carolina."

DRAYTON, WILLIAM. Born in South. Carolina, 1733. Studied law four years in the Middle Temple, London. Returned to America 1754. Chief justice of the province of East Florida, 1768. Lost his office during the Revolutionary war, but was reinstated. Spent some time during the war in England. Returned to South Carolina after the war. Judge of the admiralty court of South Carolina. Associate justice of the state 1789. First United States district judge for the district of South Carolina, commissioned Nov. 18, 1789. Died May 18, 1790.

DRUMMOND, THOMAS. Born in Bristol Mills, Lincoln county, Me., Oct. 16, 1809.

Was graduated at Bowdoin in 1830. Studied law in Philadelphia. Admitted to the bar 1833. Removed to Galena, Ill., 1835. Member of legislature 1840. United States district judge for the district of Illinois, commissioned Feb. 19, 1850. Removed to Chicago in 1854. United States circuit judge for the seventh circuit, commissioned Dec. 22, 1869. Resigned in July, 1884. Died in May, 1890.

DUANE, JAMES. Born in New York city, Feb. 6, 1733. Married a daughter of Robert Livingston in 1759. Grantee of land in the "New Hampshire Grants," (afterwards Vermont,) and a bitter partisan in that struggle. Elected to the continental congress by the committee of 51 in 1774 as a conservative. Protested against the resolution of Oct. 8, 1774, to support Massachusetts in her resistance to parliament. Opposed the Declaration of Independence as premature. Member of New York provincial congress and committee of safety. Member of state constitutional convention 1777. First mayor of New York after the British evacuation. Member of state legislature, council, and convention to ratify the federal constitution. United States district judge for the district of New York from 1789 until 1794, commissioned Sept. 26, 1789. Resigned in April, 1794. Died at Duanesburg, N. Y., Feb. 1, 1797.

DUCKETT, ALLEN BOWIE. Born in Maryland. Became a citizen of the District of Columbia. Judge of the United States circuit court for the District of Columbia, commissioned March 17, 1806. Died in August, 1809.

DUNDY, ELMER S. Born in Trumbull county, Ohio, March 5, 1830. Educated in the common schools. Taught for several years. Studied law at Clearfield, Pa. Admitted to the bar in 1853. Practiced there until 1857, when he removed to Nebraska. Member of territorial legislature, and associate justice of the territorial supreme court. United States district judge for the district of Nebraska, commissioned April. 9, 1868.

DUNLOP, JAMES. Born in Georgetown, D. O., March 28, 1793. Was graduated at Princeton, 1811. Studied law with Francis S. Key, and was afterward his partner. Recorder of Georgetown. Judge of the United States circuit court for the District of Columbia, commissioned Oct. 3, 1845; commissioned as chief judge Nov. 27, 1855; and served until March 3, 1863, when the court was abolished. Died near Georgetown, May 6, 1872.

DURELL, EDWARD H. Born in Portsmouth, N. EL, July 14, 1810. Son of Chief Justice Durell, of New Hampshire. Studied at Phillips Exeter; was graduated at Harvard, 1831. Studied law with his father and at Harvard. Removed to Pittsburgh,(Grenada,) Miss., 1834, and to New Orleans 1836. Opposed secession, and lived in retirement during the Civil War. Helped construct the temporary government after the capture of New Orleans in 1862. Mayor of New Orleans 1863. United States district judge for the eastern district of Louisiana, commissioned May 20, 1863; and for the whole state July 27, 1866. President of the state constitutional convention 1864. Declined a position on the supreme

bench of the United States 1865. Mentioned as candidate for the vice presidency in 1868. Resigned from the bench 1874. Resided in Schoharie, N. Y., from 1875 until his death, March 29, 1887. Author of "Sketches." Translator of P. C. Roux's "Essay on the History of France." Was engaged on a history of the war and reconstruction at the time of his death.

DUVAL, GABRIEL. Born in Prince George county, Md., Dec. 6, 1752. Received a classical education. Clerk of the colonial legislature. Member of congress 1794. Resigned in March, 1796. Presidential elector in 1796 and 1800. Judge of the Maryland supreme court 1796. Comptroller of the United States treasury 1802. Resigned in 1811. Associate justice of the United States supreme court, commissioned Nov. 18, 1811. Assigned to the fourth circuit. Resigned in January, 1835. Died in Prince George county, Md., March 6, 1844.

DUVAL, THOMAS H. Born Nov. 4, 1813" in Buckingham county, Va. Educated at St. Joseph's College, Bardstown, Ky. Studied law with Hon. Charles A. Wickliffe. Was secretary of Florida territory. Emigrated to Texas, locating in Austin, in 1845. Served two terms as district judge. Was secretary of state under Gov. P. H. Bell, and one of the first two reporters of the supreme court United States district judge for the western district of Texas, commissioned March 3, 1857. Died Oct 10, 1880.

DYER, CHARLES E. Born in Cicero, On ondaga county, N. Y., Oct. 5, 1834. Removed to Ohio in 1835, and to Wisconsin in 1839. Educated by a private tutor. Entered a newspaper office in Chicago 1849. Removed to Sandusky, Ohio, 1851. Studied law. Admitted to the bar 1858. Removed to Racine, Wis., 1859. City attorney 1859-1860. Member of legislature 1866-1867. United States-district judge for the eastern district of Wisconsin, commissioned Feb. 10, 1875. Retired May 4, 1888.

DYER, JOHN S. Born in Franklin, Pendleton county, Va., July 26, 1809. Educated at a classical school near Richmond, and at the University of Virginia, and later in the law school of Judge B. B. Baldwin. Admitted to the bar and practiced in his own and adjoining counties. Removed to Dubuque, Iowa, about 1846. United States district judge of

the district of Iowa, commissioned March 3, 1847. Died Sept. 14, 1855.

EDGERTON, ALONZO J. Born at Rome, N. Y., June 7, 1827. Was graduate of Wesleyan University in 1850. Taught school. Studied law three or four years. Settled in Minnesota 1855. Was a member of the first legislature of that state. Entered the army in 1862 as captain. Mustered out as brigadier general in 1867. Was presidential elector in 1876. Was senator from Minnesota 1881. Chief justice of Dakota in 1882. Member of constitutional convention of South Dakota in 1885, and again in 1889. Was president of each convention by unanimous vote of the members. United States district judge for the district of South Dakota, commissioned Nov. 19, 1889. LL. D. from Alma Mater, 1891. Published "Railroad laws of Minnesota" 1872, also edited "Constitutional Debates of South Dakota." Died Aug. 9, 1896.

EDWARDS, PIERREPONT. Son of Jonathan Edwards. Born in Northampton, Mass., April 8, 1750. Was graduated at Princeton, 1768. Began to practice law In New Haven, Conn., 1771. Member of the legislature. Administrator of Benedict Arnold's estate at the time of his treason. Served in the Revolutionary army. Member of congress 1787-1788, and of the Connecticut convention to ratify the constitution. Founder of the toleration party in Connecticut. United States district judge for the district of Connecticut, commissioned Feb. 24, 1806. Died in Bridgeport, Conn., April 5, 1826.

ELLIS, POWHATAN. Born in Virginia about 1794. Was graduated at William and Mary in 1813. Emigrated to Mississippi territory, and practiced there. Judge of the supreme court of Mississippi 1818. United States senator 1825. United States district judge for the district of Mississippi, commissioned July 14, 1832. Charge d'affaires in Mexico Jan. 5, 1836. Minister to Mexico 1839-1842. On his return he resided in Virginia, and died in Richmond about 1844.

ELLSWORTH. OLIVER. Born in Windsor, Conn., April 29, 1745. Entered Yale in 1762, but left and went to Princeton. Was graduated 1766. Studied theology a year; then law. Admitted to the bar of Hartford county, Conn., 1771. Was farmer and lawyer for three years. State's attorney in 1775, and removed to Hartford. Member of the legislature; committeeman on finances of the state. Member of congress 1778-1783; ?of governor's council 1780-1784. Declined commissionership of the United States treasury in 1784. Judge of Connecticut superior court 1784-1787. Member of the federal constitutional convention in 1787, and of the state convention to ratify the constitution. United States senator in 1789. Chairman of the judiciary committee, and reported the judiciary act of 1789, substantially as passed. Federalist leader in the senate. Galled the "Cerberus of the Treasury" for his zeal for economy. Chief justice of the United States supreme court, commissioned March 4, 1796. Was sent to France with Patrick Henry and William Davie in 1799 to secure a treaty. Resigned chief justiceship while in Europe, Sept. 30, 1800. Member of governor's council (the court of last resort of Connecticut) 1802. Presi-

dential elector 1804. On reorganization of the Connecticut judiciary in 1807, he was made chief justice of the supreme court LL. D., Yale, 1790; Dartmouth and Princeton, 1797. Died Nov. 26, 1807.

EMMONS, HALMOR HULL. Born in Glens Falls, N. Y., 1815. Educated at Rutland, Vt. Assisted his father as a journalist. Studied law. Removed to Detroit, Mich., and practiced law with his father there. Partially retired from practice in 1853.. United States circuit judge for the sixth circuit, commissioned Jan. 17, 1870. Died in Detroit, May 14, 1877.

ERSKINE, JOHN. Born in Strabane, Tyrone, Ireland, Sept 13, 1813. Came to America in 1821. Returned to Ireland to school in 1827. Returned to America 1832. Located in Florida, teaching school there. Studied law, and was admitted to the Florida bar in 1846. Removed to Atlanta, Ga., 1855. United States district judge for the Northern and Southern districts of Georgia, commissioned July 10, 1865. When the Southern district of Georgia was set off! he remained judge of the Southern district from April 25, 1882, until he resigned, Dec. 19, 1883. Died Jan. 27, 1895.

FIELD, RICHARD STOCKTON. Born in White Hill, Burlington county, N. J., Dec. 31, 1803. Was graduated at Princeton 1821. Studied law with his uncle, Richard Stockton. Admitted to the bar 1825. Member of New Jersey legislature. Attorney general of the state 1838. Resigned 1841. Member of the New Jersey constitutional convention in 1844. Professor in New Jersey Law School 1847-1855. President of the trustees of the State Normal School in 1855. United States senator 1862. United States district judge for the district of New Jersey, commissioned Jan. 14, 1863. Member of the "Loyalists' Convention" of 1866. Died in Princeton, N. J., May 25, 1870. Author of "The Provincial Courts of New Jersey," (volume 3 of the "Collections of the New Jersey Historical Society.")

FIELD, STEPHEN JOHNSON. Born at Haddam, Conn., Nov. 4, 1816. At the age of 13 went to Smyrna, Turkey, to learn Oriental languages. Was gone three years, spending one winter in Athens. On his return he entered Williams College. Was graduated in 1837 with highest honors. Went to New York, and studied law in office of his brother, David Dudley Field, and entered bar in 1841. Was law

partner of his brother from 1841 to 1848. Traveled one year in Europe, and went to California, arriving there Dec. 28, 1849, and established himself in practice in Marysville. In 1850 became first alcalde or judge of the town, continuing in that position until establishment of American institutions. Was elected member of first legislature, and took leading part in molding judiciary of state, and establishing Codes of Civil and Criminal Practice. In 1857 was elected judge of supreme court. Was chief justice in 1859, and held that office until he was appointed associate justice of the United States supreme court, commissioned March 10, 1863. Was one of commission to amend Code in 1873. Was member of electoral commission in 1877. LL. D., Williams College, 1864. In 1869 was appointed professor of law, University of California. His sister is mother of Mr. Justice Brewer. Two attempts have been made to assassinate him.

FISHER, JOHN. Born in Maryland, May 23, 1771. Was clerk of the senate, and later secretary of state, and a leader in the Democratic party. United States district judge for the district of Delaware, commissioned April 23, 1812. Died at Smyrna, April 23, 1823.

FITZHUGH, NICHOLAS. Born in Virginia, May 10, 1764. Married Miss Sally Ashton, a near relative of George Washington. Removed to the District of Columbia. Judge of the United States circuit court for the District of Columbia, commissioned Nov. 25, 1803. Died Dec. 31, 1814.

FOSTER, CASSIUS G. Born at Webster, Monroe county, N. Y., Jan. 22, 1837. Removed to Michigan. Teacher for a time. Returned to his birthplace in 1857. Studied law in Rochester and Le Roy, N. Y. Admitted to the bar 1859. Removed to Atchison, Kan., 1859. Served with the state troops in the Civil War. Member of legislature 1863-1864. Mayor of Atchison 1867. United States district judge for the district of Kansas, commissioned March 10, 1874. Removed to Topeka in 1879.

FOX, EDWARD. The following note is reprinted from 1 Haskell:

Edward Fox was born at Portland, Maine, July 10, 1815. He graduated from Harvard College in 1834. He pursued his preparatory legal studies in the office of Willis & Fessenden at Portland and at the Dane Law School, taking the degree of LL. B. in 1837, and was admitted to the bar. He at once became a copartner with Randolph A. L. Codman, with whom he continued as Codman & Fox until 1847, when he took his younger brother Frederick a partner, under the firm name of E. & F. Fox. In the latter association he continued for the remainder of his practice, though it was once interrupted in the effort to restore the health of his wife by removal to more favorable climate, and again by a brief service on the supreme bench of the state. He was appointed associate justice of the supreme judicial court of Maine, Oct. 24, 1862, and resigned in March, 1863. He was appointed judge of the district court of the United States for the district of Maine by President Johnson May 31, 1866. On the 13th of December, 1881, he sat during a jury trial, and closed the day by a charge marked with characteristic clearness and strength. He

died while asleep on the night following, after judicial service of fifteen years in the seat honored for more than forty-four years by his predecessor, the illustrious Ashur Ware.

FRASER, PHILIP. Born at Montrose, Susquehanna county, Pa., Jan. 27, 1814. Educated at Hamilton Academy, in New York, and later at Union College, from which he received an honorary degree of M. A. in 1854. Removed to Florida. Was mayor of the city of Jacksonville, 1847-1848, declining re-election. United States district judge for the northern district of Florida, commissioned July 17, 1862. Died July 26, 1876, at Montrose, Pa.

FULLER, MELVILLE WESTON. Born in Augusta, Me., Feb. 11, 1833. Was graduated at Bowdoin 1853. Studied law in Bangor with his uncle, George M. Weston, and at Harvard. Began practice in Bangor 1855. On the editorial staff of the Age. President of the common council. City attorney 1856. Removed to Chicago 1856, and rose to eminence in the profession there. Counsel in many important cases, among them the National Bank Tax Cases, the Cheney Ecclesiastical Case, the Park Commissioners' Case, and the Lake Front Case.' Member of state constitutional convention in 1862, of the legislature 1863-1865. Leader of the Douglas Democrats in that body. Member of Democratic national conventions 1864, 1872, 1876, and 1880. Chief justice of the United States supreme court, commissioned Dec. 17, 1888. Assigned to the fourth circuit LL. D. Northwestern University and Bowdoin, 1888. LL. D. Harvard, 1890.

GAYLE, JOHN. Born in Sumter district, S. C., Sept. 11, 1792. Was graduated at South Carolina University. Admitted to the bar. Removed to Mobile, Ala., 1813. Member of territorial legislature 1817. Solicitor for the first judicial district 1819. Judge of the Alabama supreme court 1823. Member of legislature; speaker 1829. Governor of Alabama 1831-1835. Presidential elector 1836 and 1840. Member of congress 1847-1849. United States district judge for the Northern, Southern, and Middle districts of Alabama, commissioned March 13, 1849. Died in Mobile, July 21, 1859.

GHOLSON, SAMUEL JAMESON. Born in Madison county, Ky., May 19, 1808. Removed to Alabama 1817. Educated in common schools. Studied law in Russellville, Ala. Moved to Athens, Miss., in 1830. Member of the Mississippi legislature 1833-1836. Member of congress 1837. United States district judge for the northern and southern districts of Mississippi, commissioned Feb. 13, 1839. Resigned Jan. 9, 1861. Active in the secession convention. Enlisted as a private in the Confederate army. Major general of the Mississippi troops and brigadier general of the Confederate army. Member of



legislature 1866. Speaker 1878. Died in Aberdeen, Miss., Oct. 16, 1883.

GILBERT, WILLIAM B. Born in Fairfax ?county, Va., July 4, 1847. Was graduated from Williams College in 1868. From the Law School University of Michigan in 1872. Removed to Oregon. Was a member of the state legislature in 1889. United States circuit judge for the ninth circuit, commissioned March 18, 1892.

GILCHRIST, ROBERT BUDD. Born in Charleston, S. C., Sept. 28, 1796. Studied at Columbia. Was graduated from South Carolina College in 1814. Admitted to the bar 1818. District attorney for South Carolina 1831, and argued the Bond Case, turning on the constitutionality of the tariff. United States district judge for the district of South Carolina, commissioned Oct. 30, 1839. Died in Charleston, May 1, 1856.

GILES, WILLIAM FELL. Born in Harford county, Md., April 8, 1807. Educated in Baltimore. Studied law there. Admitted to the bar 1829. Member of legislature 1837 and 1839. Member of congress 1845. United States district judge for the district of Maryland, commissioned July 18, 1853. Died March 22, 1879.

GLENN, ELIAS. Born at Elkton, Md., in 1770. Appointed United States district attorney by President Madison in 1812, and continued by President Monroe. United States district judge for the district of Maryland, commissioned Aug. 31, 1824; resigned March 28, 1836. Died at Baltimore, Jan. 6, 1846.

GLENN, JOHN. Born at Baltimore, Md., Oct. 9, 1795. United States district judge for the district of Maryland, commissioned March 19, 1852, to succeed Judge Heath. Died at Hilton, Baltimore county, Md., July 8, 1853.

GOFF, NATHAN. Born in Clarksburg, W. Va., Oct 9, 1843. Educated at Georgetown College and the University of New York. Enlisted in the Third Virginia volunteers (Union) in 1861, and rose to the rank of major. Admitted to the bar 1865, and elected to the legislature the same year. United States district attorney for the district of West Virginia 1868-1881. Secretary of the navy 1881. He was again district attorney from 1881-1882. Elected to congress as a Republican in 1884 and 1886. United States circuit judge for the fourth circuit, under the act of March 3, 1891, commissioned March 7, 1892.

GRAY, HORACE. Born in Boston, Mass., March 24, 1828. Was graduated at Harvard in 1845, and at the Harvard Law School in 1849. Admitted to the bar 1851. Reporter for the Massachusetts supreme court for seven years. Associate justice of the Massachusetts supreme court, Aug. 23, 1864; chief justice Sept 5, 1873. Associate justice of the United States supreme court, commissioned Jan. 30, 1882. Assigned to the first circuit.

GREEN, EDWARD T. Born in Trenton, N. J., June 8, 1837. Was graduated at Princeton in 1854, and at Harvard Law School 1858. Admitted to the New Jersey bar the same year. Practiced in Trenton. Was city solicitor 1860-1861. Counsel for Pennsylvania

Railroad Company 1872-1889. Elected trustee of Princeton College 1892. United States district judge for the district of New Jersey, commissioned Oct. 24, 1889.

GRESHAM, WALTER Q. Born near Lanesville, Harrison county, Ind., March 17, 1832. Spent one year in the State University at Bloomington. Studied law at Corydon, Ind. Admitted to the bar 1853. Member of legislature 1860. Resigned 1861, and became lieutenant colonel in an Indiana regiment. Brevetted major general of volunteers March 13, 1865. Resumed practice in New Albany, Ind. Financial agent of Indiana in New York 1867-1868. United States district judge for the district of Indiana, commissioned Sept. 1, 1869. Postmaster general 1882. Secretary of the treasury 1884. United States circuit judge for the seventh circuit, commissioned Oct. 28, 1884. Candidate for the presidential nomination (Republican) 1888. Secretary of state in President Cleveland's cabinet, March 6, 1893. Died May 28, 1895.

GRIER, ROBERT COOPER. Born in Cumberland county, Pa., March 5, 1794. Was graduated at Dickinson in 1812. Taught there one year. Principal of Northumberland Academy 1815. Studied law in leisure moments. Admitted to the bar 1817. Practiced in Bloomsburg, Pa. Removed to Danville. Removed to Alleghany City 1838. Appointed judge of the district court of Alleghany in the same year. Associate justice of the United States supreme court, commissioned Aug. 4, 1846. Assigned to the third circuit. Removed to Philadelphia 1848. Sent in his resignation 1869, but held the office until his death, in Philadelphia, Jan. 31, 1870.

GRIFFIN, CYRUS. Born in Virginia, 1749. Educated in England. Member of legislature. Member of congress 1778, 1781, and 1787-1788. President of congress 1788. President of the federal court of admiralty appeals from its creation to its abolition. Commissioner to the Creek Nation 1789. United States district judge for the district of Virginia, commissioned Nov. 28, 1789. Died in Yorktown, Va., Dec. 14, 1810.

GRIFFITH, WILLIAM. Born in New Jersey. United States circuit judge for the third circuit, commissioned Feb. 20, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802.

Mayor of Burlington, N. J. Died there 1826. Author of the United States Law Register. An obituary note, containing extracts from the resolutions of the New Jersey bar on his decease and other matters, will be found in Wallace's Reporters (4th Ed.) p. 563.

GROSSCUP, PETER S. Born Ashland, Ohio, Feb. 15, 1852. Educated in high school at Ashland and Wittenberg College, graduating June, 1872. Graduated from Boston Law School. City solicitor of Ashland, Ohio, from 1874 to 1881. Republican candidate for congress 1876, but defeated. United States district judge for the northern district of Illinois, commissioned Dec. 21, 1892.

HAIGHT, FLETCHER M. Born at Elmira, N. Y., Nov. 28, 1799. Graduated from Hamilton College in 1818. Admitted to the New York state bar 1820. Represented Monroe county in the state legislature 1833. Practiced law at Rochester, N. Y. Removed to St. Louis, Mo., and later to San Francisco, Cal., where he was appointed United States district judge for the southern district of California, commissioned Aug. 5, 1861. Died Feb. 23, 1866.

HALL, DOMINICK AUGUSTINE. Born in South Carolina, 1765. Began practice in Charleston, S. C. United States circuit judge (chief judge) for the fifth circuit, commissioned July 1, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. United States district judge for the district of Orleans, commissioned Dec. 11, 1804. United States district judge for the district of Louisiana, commissioned June 1, 1812. Resigned to accept a place on the Louisiana supreme bench, March, 1813. Again appointed United States district judge for the district of Louisiana, commissioned June 1, 1813. Died in New Orleans December 19, 1820. In December, 1814, he was ordered by the military authorities to adjourn court for two months. In March, 1815, New Orleans being under martial law, he granted a writ of habeas corpus to a member of the legislature then under arrest by Gen. Jackson's order, who refused to recognize the writ, and committed the judge to jail. On the next day he was released, summoned Gen. Jackson to answer for contempt, and fined him in the sum of 81,000. This was refunded to Jackson by congress in 1844, with interest.

HALL, NATHAN KELSEY. Born in Marcellus, Onondaga county, N. Y., March 10, 1810. Moved to Erie county, 1818. Educated at country district schools. At the age of 18 entered the office of Millard Fillmore in Aurora, N. Y. Admitted to the bar 1832, and became a partner of Fillmore in Buffalo. Deputy clerk of Erie county 1831-1832. Clerk of the board of supervisors 1832-1838. City attorney 1833-1834. Alderman 1837. Appointed master in chancery by Gov. Seward in 1839, and judge of common pleas 1841. Elected to assembly 1845. Member of congress 1847-1849. Postmaster general 1850. United States district judge for the northern district of New York, commissioned Aug. 31, 1852. Died in Buffalo, N. Y., March 21, 1874.

HALL, WILLARD. Born in Westford, Mass., Dec. 24, 1780. Was graduated at Harvard 1799. Studied law with Samuel Dana, of Groton. Admitted to the bar 1803. Removed to Dover, Del., and practiced there. Secretary of state for Delaware 1811-1814 and in 1821. Member of congress 1817-1821. Member of legislature 1822. United States district judge for the district of Delaware, commissioned May 6, 1823. Resigned Dec, 1871. Revised the state laws by order of the legislature in 1829. Member of the state constitutional convention of 1831. Died in Wilmington, Del., May 10, 1875.

HALLETT, MOSES. Born in Illinois, July 16, 1834. Studied law in Chicago. Was admitted to the Illinois bar, Jan., 1858. Removed to Colorado in the spring of 1860. Was a member of the territorial council 1863-1865. Appointed chief justice of Colorado territory, April 10, 1866, which office he held until the territory was admitted as a state in 1876. United States district judge for the district of Colorado, commissioned Jan. 12, 1877. LL. D., Colorado University. Dean of the law school, University of Colorado, and professor of American constitutional law and federal jurisprudence.

HALYBURTON, JAMES D. Born in New Kent county, Va., Feb. 23, 1803. Was graduated at Harvard College, and in law at the University of Virginia. Was a member of the general assembly of Virginia. Practiced law for several years in New Kent county, and was attorney for the circuit. United States district judge for the eastern district of Virginia, commissioned June 15, 1844. Resigned April 17, 1861. Died at Richmond, Va., Jan. 26, 1879.

HAMMOND, ELI SHELBY. Born at Brandon, Miss., April 21, 1838. Was graduated at Union University, Tenn., in 1857, and at Lebanon Law School in 1858. Served in the Confederate army 1861-1865. United States district judge for the western district of Tennessee, commissioned June 17, 1878.

HANFORD, CORNELIUS HOLGATE. Born at Winchester, Iowa, April 21, 1849. Was United States commissioner; Member of the council of Washington Territory one term. City attorney of Seattle three terms. Chief justice of Washington Territory at the time of its admission as a state. United States district judge for the district of Washington, commissioned Feb. 25, 1890. Judge Hanford has lived on the Pacific coast since 1853.

HARLAN, JOHN MARSHALL. Born June 1, 1833, in Boyle county, Ky. Was graduated

at Centre College, in that state, in 1850. Appointed by Gov. Helm adjutant general of Kentucky in 1851. Admitted to the bar in 1853. Elected presiding judge of the county court of Franklin county, Ky., in 1858. Was Whig candidate for congress in the Ashland district in 1859, and defeated by only 67 votes. Elector for Bell and Everett in 1861. Colonel of the 10th Kentucky Union infantry in 1861, and subsequently commanded a brigade in the 1st division of the Army of the Ohio. In 1863 elected on Union ticket attorney general of Kentucky. In 1871, and again in 1875, was the Republican candidate for governor of Kentucky. In 1877 a member of the Louisiana commission appointed by President Hayes. Associate justice of the supreme court of the United States, commissioned April 22, 1878. In 1890 he accepted the position of lecturer on constitutional law in Columbian University at Washington, D. C. In 1892 he was appointed by President Harrison, in connection with Hon. John T. Morgan, as one of the arbitrators between the United States and Great Britain, in the dispute relating to the Bering seal fisheries. LL. D., Bowdoin College, Me., and Centre College, Ky.

HARPER, SAMUEL A. United States district judge for the district of Louisiana, commissioned March 7, 1829. Died at Madisonville, La., July 19, 1837.

HARRIS, EDWARD. United States circuit judge for the fifth circuit, commissioned May 3, 1802. The act under which the appointment was made was repealed, to take effect July 1, 1802.

HARVEY, MATTHEW. Born in Sutton, N. H., June 21, 1781. Was graduated at Dartmouth, 1806. Studied law under John Harris. Admitted to the bar 1809. Practiced in Hopkinton, N. H. Member of legislature 1814-1820; speaker 1817-1820. Member of congress 1821-1825. President of the state senate 1825-1828. Councilor 1828-1830. Governor of New Hampshire 1830-1831. United States district judge for the district of New Hampshire, commissioned Nov. 2, 1830. Died in Concord, N. H., April 7, 1866. LL. D., Dartmouth, 1855. President of New Hampshire Historical Society.

HAWLEY, THOMAS P. Born in Ripley county, Ind., July 30, 1830. Received a common-school education. Removed to California in 1852. Deputy county clerk of Nevada county in 1855. Admitted to practice law in 1857. District attorney in 1863. Removed to Nevada in 1868. City attorney, Treasure City, Nev., 1869. Elected justice of the supreme court of Nevada in 1872. Re-elected in 1878 and 1884. Resigned in Sept., 1890, upon having been appointed United States district judge for the district of Nevada, commissioned the 15th of that month.

HAY, GEORGE. Member of the Virginia legislature. United States district attorney for the district of Virginia. Prosecuted Aaron Burr. United States 'district judge for the eastern district of Virginia, commissioned July 5, 1825. Married a daughter of President Monroe. Wrote political essays over the name "Hartensius," a "Treatise on Usury Laws,"

a "Life of John Thompson," and a "Treatise oh Expatriation." Died in Richmond, Va., Sept 21, 1830.

**HAYS, WILLIAM H.** Born in Washington county, Ky., Aug. 26, 1820. Educated in the select schools of his county. Commenced the study of law at Elizabethtown in 1843, under James W. Hays. Attended law lectures at Glasgow, Ky. Was admitted to the bar in 1845. Practiced his profession at Springfield, Ky. Elected county judge in 1851. Re-elected in 1854. Elected to the state legislature in 1861, and in the same year entered the United States army as lieutenant colonel of the 10th volunteer infantry. Became colonel of his regiment in 1862. Served three years, participating in the battles of Chicamauga, Missionary Ridge, Atlanta, Jonesboro, and others. Appointed inspector general of Kentucky by the governor in 1865. Engaged in the oil business; on the Cumberland river, and in 1867 returned to Springfield, resuming the practice of law. United States district judge for the district of Kentucky, commissioned Sept. 6, 1879, which office he held until his decease, at Louisville, March 7, 1880.

**HEATH, UPTON S.** Born in Maryland about 1785. Was liberally educated, the contemporary of Pinkney, Martin, Wirt, Winder, Hooper, Harper, and other noted members of the Maryland bar. United States district judge for the district of Maryland, commissioned April 4, 1836. Was distinguished for his firmness, impartiality, and probity as a public officer. Although he never married, he was the head and support of a large family of relatives. Died at his residence in Baltimore, Feb. 21, 1852.

**HILL, ROBERT A.** Born in Iredell county, N. C, March 25, 1811. Removed to Tennessee in 1816. He received a meager education. Was a school teacher in 1833-1834. Justice of the peace 1836-1844. Began practice in Waynesborough. Attorney general of Tennessee 1847 and 1853. Removed to Jacinto, Tishomingo county, Miss., in 1855. He was a Whig, and took no part in secession. Member of state convention in 1865. Chancellor after the war. United States district judge for the northern and southern districts of Mississippi, commissioned May 1, 1866. Retired Aug. 1, 1891. Prepared the articles on the judiciary in the Mississippi constitution of 1870. Trustee of the University of Mississippi, and lecturer in the law school.

HILLYER, EDGAR W. Born in Granville, Ohio, Dec. 3, 1830. Was graduated at Denison University. Removed to California 1852. Admitted to the bar in Placer county, 1857. Member of legislature 1861. Resigned and enlisted as a private. Became judge advocate and lieutenant colonel. Resigned 1865. Removed to Nevada. District attorney of Storey county. United States district judge for the district of Nevada, commissioned Dec. 21, 1869. Died May 10, 1882. The proceedings of the bench and bar upon his decease will be found in 8 Sawy. 5.

HITCHCOCK, SAMUEL. Born in Brimfield, Mass., March 23, 1755. Graduated at Harvard 1777. Read law at Brookfield, Mass., with Hon. Jedediah Foster. Moved to Burlington, Vt, about 1786, and practiced law. Was first state's attorney in Chittenden county, holding office from 1787 to 1790. Was representative from Burlington from 1789 to 1793. Was member of convention of delegates of the people of Vermont, held at Bennington, Jan. 10, 1791, to ratify constitution of United States. Was a trustee of the University of Vermont from its start until his death, and was its secretary from 1791 to 1800. He is also said to have drafted its charter. Attorney general of the state 1790-1793. Presidential elector at second presidential election in 1793. Member of first electoral college of Vermont in 1792, and cast vote for Washington and Adams. Was one of revisors of laws in 1797. United States district judge for the district of Vermont, commissioned Sept. 3; 1793, and United States circuit judge for second circuit, commissioned Feb. 20, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. Married, May 26, 1789, Lucy C. Allen, daughter of Ethan Allen. Pronounced a eulogy on Washington, which is probably preserved in manuscript. Died at Burlington, Vt, Nov. 30, 1813.

HOBART, JOHN SLOSS. Born in Fairfield, Conn., 1733. Was graduated at Yale 1757. Practiced in New York state. Member of the New York Revolutionary congress. One of a committee to draft a state constitution Aug. 1, 1776. Judge of New York district court July, 1777. Judge of the New York state supreme court Elected United States senator in January, 1798. Resigned 1798. United States district judge for the district of New York, commissioned April 12, 1798. Died Feb. 4, 1805.

HOFFMAN, OGDEN. Born in Goshen, Orange county, N. Y., Oct 15, 1822. Was graduated at Columbia in 1840. Studied law at Harvard, and was admitted to the bar of New York, where he practiced. Removed to California 1850, where he continued his practice of law. United States district judge for the northern district of California, commissioned Feb. 27, 1851. United States district judge for the district of California from July 27, 1866, until the abolishment of that district, Aug. 5, 1866, when he was again assigned to the northern district, where he remained until his death, Aug. 9., 1891.

HOLMAN, JESSE LYNCH. Born in Danville, Ky., Oct. 24, 1784. Received a limited education. Studied law in the office of Henry Clay. Removed to Indiana 1808. Circuit

judge of Indiana territory. Member of territorial legislature 1813. President of the council 1814. Judge of the Indiana supreme court 1816-1830. United States district judge for the district of Indiana, commissioned Sept. 16, 1835. Died in Aurora, Ind., March 28, 1842. Served as Baptist clergyman in Aurora from 1834 until his death. One of the founders of Indiana College and of Franklin College.

HOPKINS, JAMES CAMPBELL. Born in Pawley, Vt., April 27, 1819. Removed to New York in 1823. Was graduated at the academy in North Granville in 1843. Was admitted to the bar in 1845. Postmaster in Granville for five years. Elected to the senate of New York state in 1853. Removed to Madison, Wis., in 1856. Assisted in arranging the Wisconsin Code of Practice. United States district judge for the western district of Wisconsin, commissioned July 9, 1870. Died at Madison, Sept. 3, 1877.

HOPKINSON, FRANCIS. Born in Philadelphia Sept. 21, 1737. Educated at the College of Philadelphia. Studied law under Benjamin Chew. Admitted to the bar 1761. Went to England 1766, and sought the place of commissioner of customs in the colonies. Practiced law in Philadelphia. Collector of customs at Newcastle 1772. He was removed because of his Republicanism. Resided in Bordentown, N. J. Member of New Jersey provincial council 1774-1776. Member of congress 1776. Signer of the Declaration of Independence. On the committee to draft the articles of confederation. Head of the navy department Treasurer of the continental loan office. Judge of admiralty for Pennsylvania 1779-1789. Impeached for misdemeanor in office and acquitted. United States district judge for the district of Pennsylvania, commissioned Sept. 26, 1789. Died May 9, 1791. He was skill ed, in science, painting, and music. Author of essays and poems, among them "The Battle of the Kegs," "The New Roof," "The Political Catechism."

HOPKINSON, JOSEPH. Son of Judge Francis Hopkinson. Born in Philadelphia Nov. 12, 1770. Was graduated at University of Pennsylvania 1786. Began practice at Easton, Pa., 1791. Removed to Philadelphia. Counsel for Dr. Rush in his libel suit against William Corbett in 1799. Counsel for the Western insurgents in the treason trials before Judge Chase, and for Judge Chase in his impeachment trial. A Federalist in politics.



Member of congress 1814-1819. Resumed practice 1823. United States district judge for the eastern district of Pennsylvania, commissioned Oct. 23, 1828. Died Jan. 13, 1842. Member of the Pennsylvania constitutional convention of 1839. Served on the committee on the judiciary. Trustee of University of Pennsylvania. President of the Academy of Fine Arts. Vice President of the American Philosophical Society. Author of the song, "Hail Columbia," which was very effective in stirring popular resentment against French aggression in 1798.

HOUSTON, JAMES. Born in Chestertown, Kent county, Md., Oct. 10, 1767. Educated at the public schools of Chestertown. Admitted to the bar, March 17, 1806. Appointed United States district judge for the district of Maryland, April 21, 1806. Died in June, 1819.

HOWE, JAMES H. Born in Turner, Me., Dec. 5, 1827. Was educated at Saco, Me., and Green Bay, Wis. Was attorney general from 1860 to 1862. Colonel of 32d Wisconsin infantry from 1862 to 1864. United States district judge for the eastern district of Wisconsin, commissioned Jan. 3, 1874. Resigned Jan. 1, 1875. Died in 1893.

HOWELL, DAVID. Born in New Jersey, Jan. 1, 1747. Was graduated at Princeton in 1766. Removed to Rhode Island. Professor of mathematics and law in Brown University 1790-1824. Attorney general of Rhode Island. Judge of the state supreme court. Member of congress 1782-1785. Commissioner for the United States to settle their eastern boundary. United States district judge for the district of Rhode Island, commissioned Nov. 17, 1812. Died July 29, 1824.

HUGHES, ROBERT WILLIAM. Born in Powhatan county, Va., June 6, 1821. Educated at Caldwell Institute, Greensboro, N. C. Tutor in Bingham's High School, Hillsborough, 1840-1843. Practiced law in Richmond from 1846 to 1853. Editor of Richmond Examiner 1850-1857. Joint Editor with John M. Daniel 1861-1865. Editor of Richmond Republic 1865-1866, and of Richmond State Journal 1869-1870. United States attorney for the western district of Virginia 1871-1873. Republican candidate for the governor of Virginia in 1873; United States district judge for the eastern district of Virginia, commissioned Jan. 14, 1874. Author of biographies of Gen. John B. Floyd and Gen. Joseph E. Johnston. Published "Lee and his Lieutenants" in 1867. Author of "The Currency Question" (Putnam's: New York), 1879, and of the "American Dollar" 1885, and of five volumes of United States Circuit and District Court Reports 1879-1885. Delivered the opinion in the famous Arlington Estate Case, which was affirmed by the supreme court.

HUMPHREYS, WEST H. Born in Montgomery county, Tenn., in 1805. Studied law with Foster & Fogg, of Nashville. Afterwards attended a course of law lectures, delivered by Charles Humphreys, at Lexington, Ky. Was granted a license to practice law in 1828. Practiced successively at Charlotte and Clarksville. Moved to Fayette county in 1832. In 1834 he was sent as a delegate to the constitutional convention. Subsequently

represented his county in the legislature, and was the youngest member of that body. In 1839 he became a member of the board of internal improvements, and was elected by the legislature attorney general for the state, and reporter of the decisions of the supreme court. Re-elected in 1844. Declined re-election at the expiration of his term of office in 1851. United States district judge for the districts of Tennessee, commissioned March 26, 1853, which office he held until June 26, 1862. At the breaking out of the war he was appointed district judge for the Confederate States of America, which position he held until Tennessee came under the control of the Union forces, when Judge Humphreys moved south, where he remained until the close of the war. From that period until a short time before his death was engaged in practice, though not actively; Died in 1881 in Tennessee. He was the brother-in-law of Gen. Gideon J. Pillow, Maj. Granville A. Pillow, and others of large estate in ante bellum days. He was the author of Humphrey's Reports, and of various essays on internal improvements, law reform, and temperance.

HUNT, SAMUEL WARD. Born in Utica, N. Y., June 14, 1810. Was graduated at Union in 1828. Studied law in Litchfield, Conn. Practiced in Utica. Member of legislature 1839. Mayor of Utica 1844. Judge of the New York court of appeals 1865. Associate justice of the United States supreme court, commissioned Dec. 11, 1872. Allotted to the second circuit. Retired Jan. 7, 1882. LL.D., Rutgers and Union. Died in Washington, D. C, March 24, 1886.

HUNTINGTON, ELISHA MILLS. Born in Otsego county, N. Y., March 26, 1806. Removed to Indiana. Admitted to the bar there. Prosecuting attorney 1829. Member of legislature 1831. President judge of his circuit. Commissioner of general land office in Washington, D. C, 1841. United States district judge for the district of Indiana, commissioned May 2, 1842. Died in St. Paul, Minn., Oct 26, 1862.

INGERSOLL, CHARLES ANTHONY. Born in New Haven, Conn., Oct. 19, 1798. Studied law in the office of his father, Judge Jonathan Ingersoll. Was judge of the probate court for the probate district of New Haven, 1829-1838. State's attorney 1849-1853. Clerk of United States courts for the district of Connecticut 1820-1853. United States district judge for the district of Connecticut, commissioned April 8, 1853. Died at New Haven Feb. 7, 1860. M. A., Yale, 1827.

INNIS, HARRY. Born in Caroline county, Va., 1752. Land commissioner for Virginia 1779. Judge of the supreme court of Virginia for the district of Kentucky 1783. Attorney general for Kentucky 1785. United States district judge for the district of Kentucky, commissioned Sept 26, 1789. Declined chief justiceship of Kentucky 1792. Favored a separate arrangement by Kentucky with Spain for the navigation of the Mississippi. An attempt to impeach him in 1808 for complicity in the Spanish intrigue failed. He died in Frankfort, Ky., Sept. 20, 1816.

IREDELL, JAMES. Born in Lewes, Eng., Oct 5, 1750. Removed to North Carolina. Deputy collector of the port of Edenton. Studied law with his brother-in-law, Samuel Johnson. Began practice in 1775. Resigned the collectorship on the outbreak of the Revolution. Judge of the superior court 1777. Resigned 1778. Attorney general of North Carolina 1779. Resigned soon after. Commissioner to revise the laws of the state, (*Iredell's Revisal*, 1791.) A Federalist leader. Member of the state convention which refused to ratify the federal constitution 1788. Associate justice of the United States supreme court, commissioned Feb. 10, 1790. Assigned to the southern circuit. Wrote dissenting opinion in *Chisholm v. Georgia*, denying the right of a private citizen to sue a state. Dissented also in *Wilson v. Daniels*, touching writs of error, and his view was ultimately adopted by the court. His addresses to grand juries often published. Author of a treatise on Pleading, which was never published. Died in Edenton, N. C, Oct. 20, 1799.

IRWIN, THOMAS. Born in Philadelphia, Feb. 22, 1785. Educated at Franklin College, but was not graduated. Editor of *Philadelphia Repository* 1804. Admitted to the bar 1808. Indian agent at Natchitoches, La., and practiced law there. Settled in Union-town, Fayette county, N. Y., 1810. Member of legislature 1824-1826; of congress 1828. United States district judge for the western district of Pennsylvania, commissioned April 14, 1831. Resigned Jan. 4, 1859. Died in Pittsburgh, Pa., May 14, 1870.

JACKSON, HOWELL EDMUNDS. Born in Paris, Tenn., April 8, 1832. Moved to Jackson, Tenn., in 1840. Was graduated from the West Tennessee College 1848. Studied at the University of Virginia two years. Removed to Memphis 1859. Judge of Tennessee supreme court for two terms. Again moved to Jackson 1876. Member of legislature 1880. United States senator (Democrat) 1881-1886. United States circuit judge for the sixth circuit, commissioned April 12, 1886. Associate justice of the United States supreme court, commissioned Feb. 18, 1893. Died Aug. 8, 1895.

JACKSON, JOHN GEORGE. Born in Virginia 1774. Surveyor of public lands in what is now Ohio in 1793. Member of legislature 1797-1801 and 1811. Member of congress (Democrat) 1795-1797, 1799-1801, 1807-1809, and 1813-1817. United States district judge for the western district of Virginia, commissioned Feb. 24, 1819. Died in Clarksburg, Va., March 29, 1825.

JACKSON, JOHN J., Jr. Born at Parkersburg, W. Va., Aug. 4, 1824. Graduated Princeton College, N. J., in June, 1845. Admitted to the bar in Virginia, Nov., 1847. Three years attorney for the state in Ritchie and Wirt counties. Four years a member of the Virginia legislature, from Jan., 1852, to Dec, 1856. Whig elector on four presidential tickets,—Taylor, Scott, Fillmore, and Bell. Was strongly opposed to the secession of Virginia, and took a very active part in the public discussion against the ordinance of secession when it was submitted. United States district judge for the western district of Virginia (now West Virginia), commissioned Aug. 3, 1861, which position he still holds.

JAY, JOHN. Born in New York city Dec. 12, 1745. Was graduated at Kings College (Columbia) 1764. Studied law with Benjamin Kissam. Lindley Murray was his fellow-student. Admitted to the bar 1766. Member of Revolutionary committee of correspondence and recommended a congress 1776. Member of congress 1774-1779. One of a committee of three to prepare an address to the people of Great Britain, an address to the people of Canada and Ireland, and a petition to the king. Member of many Revolutionary committees. Drafted the New York state constitution of 1777. First chief justice of New York 1777. President of congress 1778. Minister to Spain 1779. Commissioner with John Adams and Franklin to negotiate the peace of 1783, and did much to thwart the designs of France at that time. Secretary of foreign affairs 1784-1789. Joint author of the Federalist with Hamilton and Madison. First chief justice of the United States supreme court, commissioned Sept. 26, 1789. Candidate for the governorship of New York 1792, but was unfairly "counted out." Special envoy to England 1794, when he negotiated "Jay's Treaty." Elected governor of New York while in England. Re-elected 1798. Reappointed chief justice by President Adams in 1801, but declined. Spent the rest of his life in retirement. Married the eldest daughter of Gov. William Livingston. Died in 1829.

JENKINS, JAMES G. United States district judge for the eastern district of Wisconsin, commissioned July 2, 1888. Circuit judge of the United States for the seventh circuit, commissioned March 23, 1893.

JOHNSON, ALEXANDER SMITH. Born in Utica, N. Y., July 30, 1817. Was graduated

at Yale in 1835. Began practice in New York city. Judge of the New York court of appeals 1846-1860. Resumed practice in Utica in 1800. United States commissioner for settlement of the Puget sound controversy in 1864. Member of the New York commission of appeals 1873-1875. United States circuit judge for the second circuit, commissioned Oct. 20, 1875. Regent of the University of the state of New York. Died in Nassau, New Providence, Jan. 26, 1878.

JOHNSON, BENJAMIN. Born in Scott county, Ky., Jan. 22, 1784. Was judge of Lexington circuit. Appointed judge of the superior court of the territory of Arkansas, Jan. 23, 1820, which office he held until his appointment as United States judge for the district of Arkansas. Commissioned June 29, 1836. Died at Little Rock, Oct. 2, 1849.

JOHNSON, THOMAS. Born in St. Leonard's, Calvert county, Md., Nov. 4, 1732. Educated by private tutors. Member of the colonial legislature 1762-1773. A leader in opposing the stamp act. Member of the committee of correspondence 1773, and of the convention to elect delegates to congress 1774. Member of the committee of safety, of the provincial convention, and of congress, 1775. Nominated Washington for commander-in-chief June 15, 1775. Senior general of the Maryland forces, and in charge of all measures of public defense, 1776. Member of congress 1776-1778. Elected first governor of Maryland Feb. 14, 1777. Re-elected 1778 and 1779. Member of legislature 1780-1781. Largely through his influence Maryland joined the Confederacy in 1781. Member of congress 1781-1787, and introduced a bill to sell the western lands. An ardent supporter of the constitution, and a member of the Maryland convention to ratify it. Declined the United States district judgeship for the district of Maryland in 1789. Chief judge of the general court of Maryland April 20, 1790. Resigned 1791. Associate justice of the United States supreme court, commissioned Aug. 5, 1791. Declined the chief justiceship offered him by Washington after Rutledge's retirement Resigned March 3, 1793. Declined the office of secretary of state Aug. 14, 1795. One of three commissioners to lay out the city of Washington. Died at Rose Hill, Frederick county, Md., in October, 1819.

JOHNSON, WILLIAM. Born in Charleston, S. C, Dec. 27, 1771. Was graduated at Princeton in 1790, with the highest honors in his class. Studied law in the office of Charles Cotesworth Pinckney. Admitted to the bar 1793. Member of legislature 1794-1798. Speaker 1796-1798. Judge of the court of common pleas. Associate justice of the United States supreme court, commissioned March 26, 1804. Assigned to the sixth circuit. An ardent Democrat. Decided Jefferson's embargo unconstitutional 1808. Used all his influence against the extension of the admiralty jurisdiction. Opposed nullification, and resided in Pennsylvania during that agitation. He died in Brooklyn, N. Y., August 11, 1834. LL.D., Princeton, 1818. He edited the "Life and Correspondence of General Nathaniel Greene."

JONES, JAMES M. Born in Kentucky about 1821. Removed to Plaquemine, Iberville parish, La., when quite young, and at the age of 17 began to study law in the office of Mr. Edwards of Plaquemine. His health being delicate, he traveled in Europe for about a year, and after his return resumed the study of law, and began practice in Louisiana. Went to California soon after the gold discovery, and located in San Joaquin district. Was delegate to constitutional convention of 1849, in which year he located in San Jose, and formed law partnership with Hon. John B. Weller. His name was spoken of in connection with United States senate when he was too young to be eligible. United States district judge for Southern district of California, commissioned Dec. 26, 1850, but died about Dec. 15, 1851, before he had taken his legal residence at Los Angeles.

JONES, WILLIAM GILES. Came to Alabama in 1834, and held a position in the land office at Demopolis. Moved to Greensboro. Representative from Green county in 1842. Moved to Mobile, and in 1849 was elected to the house from Mobile county. United States district judge for the northern and southern districts of Alabama, commissioned Sept. 29, 1859. Resigned Jan. 11, 1861, to accept same position from President Davis. Resides at Mobile, Ala.

JUDSON, ANDREW THOMPSON. Born in Ashford, Conn., Nov. 29, 1784. Admitted to the bar 1806. Removed for a time to Montpelier, Vt. Settled in Canterbury, Conn. Member of legislature 1816. Prominent in the toleration party, and the movement for a state constitution in place of the old charter, 1818. State's attorney for Windham county 1819. Member of legislature several years. Member of congress 1834-1837. United States district judge for the district of Connecticut, commissioned July 4, 1836. Died in Canterbury, Conn.. March 17, 1853.

KANE, JOHN KENTZING. Born in Albany, N. Y., May 16, 1795. Was graduated at Yale in 1814. Studied law with Joseph Hopkinson. Admitted to the bar 1817. Practiced in Philadelphia. A Federalist in politics. Member of legislature 1823. Joined Democratic party. Solicitor for Philadelphia 1808-1830. Commissioner under the convention of indemnity with France 1832. Published "Notes" of the proceedings. Attorney general of Pennsylvania 1845. Resigned 1846. United States district judge for the eastern district of Pennsylvania, commissioned

June 17, 1846. Prominent in the Presbyterian Church. Member of the American Philosophical Society. Died in Philadelphia Feb. 21, 1858.

KEATLEY, JOHN H. Born near Bellefonte, Pa., Dec. 1, 1838. Received education in common schools and printing office. Studied law under Gov. Andrew G. Curtin. Admitted to bar in 1860. District attorney in 1863, when in military service. Re-elected 1865. Removed west 1867. Mayor of Council Bluffs, Iowa, 1876. Iowa house representative 1885. Was one of the managers on part of house in impeachment of State Auditor Brown. Chief of law division, second comptroller's office, treasury department, 1887. United States district and circuit judge for district Alaska, commissioned Aug. 25, 1888. Resigned Dec. 8, 1889. Commandant Iowa Soldiers' Home, Oct. 1, 1892. Resigned Oct. 1, 1894.

KETCHUM, WINTHROP TV. Born in Wilkes-Barre, Pa., June 29, 1820. Received a classical education. Teacher for four years. Admitted to the bar in 1850. Prothonotary of Luzerne county for three years. Member of legislature 1858. Solicitor of the United States court of claims 1864-1866. Member of congress (Republican) 1875-1877. United States district judge for the western district of Pennsylvania, commissioned June 26, 1876. Died in Pittsburgh Dec. 6, 1879.

KEY, DAVID McKENDREE. Born in Greene county, Tenn., Jan. 27, 1824. Was graduated at Hiwassee College, Tenn., in 1850. Admitted to the bar 1850. Moved to Chattanooga 1853. Presidential elector 1856 and 1860. Opposed secession. Lieutenant colonel of Forty-Third Tennessee infantry (Confederate) during the Civil "War. Pardoned by President Johnson. Member of Tennessee constitutional convention in 1870. Chancellor of the third division of the state until 1875. United States senator 1875. Postmaster general 1877-1880. United States district judge for the eastern and middle districts of Tennessee, commissioned May 27, 1880. Resigned Jan. 28, 1895.

KEY, PHILIP BARTON. Born in Cecil county, Md., 1757. Was liberally educated in England. Took the Tory side in the Revolution, and served in the British army with the rank of captain. Returned to Maryland 1785. Settled in Annapolis 1790, and rose to eminence at the bar. Member of legislature 1794. Removed to Georgetown, D. C., 1801. United States circuit judge for the fourth circuit, commissioned Feb. 20, 1801. Commissioned chief judge of the circuit March 3, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. Member of congress (Federalist) 1807-1813. Died in Georgetown, D. C., July 28, 1815.

KILTY, WILLIAM. Practiced law in Maryland. In 1799 prepared the Acts of Assembly. Chief judge of the United States circuit court for the District of Columbia, commissioned March 23, 1801. Resigned in Jan., 1806. Chancellor of state of Maryland. Prepared collection of British statutes.

KNOWLES, HIRAM. Born at Hamden, Me., Jan. 18, 1834. Educated at Denmark Academy, Iowa, and Antioch College, Ohio. Graduated at Harvard Law School in 1860. Appointed prosecuting attorney for Humboldt county, Nev., in 1863. Elected probate judge in the fall of the same year. Associate justice of the supreme court of Montana territory in July, 1868. Resigned Aug. 1, 1879. Elected and served as a member of the convention which framed the constitution of the state of Montana, 1889. District judge for the district of Montana, commissioned Feb. 21, 1890.

KNOWLES, JOHN POWER. Born at Providence, R. I., June 13, 1808. Educated at his native place, at the Harvard Law School, and South Reading. Admitted to the bar in 1837. Was reporter of decisions of the supreme court of Rhode Island, 1855-1856, 1865-1867, United States district judge for the district of Rhode Island, commissioned Oct. 9, 1869. Ceased to be district judge March 8, 1881. Died Aug. 3, 1887.

KREKEL, ARNOLD. Born in Germany, March 12, 1815. Removed to America 1832. Settled in Missouri. Educated in Germany and at St. Charles College, Mo. Admitted to the bar 1844. Member of legislature 1852. President of the Missouri constitutional convention of 1865. Colonel Missouri Home Guard 1863-1864. United States district judge for the western district of Missouri, commissioned March 9, 1865. Died June 8, 1888.

LACOMBE, EMILE HENRY. Born in New York City, in 1846. Was graduated from Columbia College in 1863. Columbia Law School in 1865, taking the prize for an essay on constitutional law. Was counsel to the corporation of New York City from June 1, 1884, to June 30, 1887. United States circuit judge for the second circuit, commissioned May 26, 1887. LL.D., Columbia, 1894.

LAMAR, LUCIUS QUINTUS CINCINNATUS. Born in Putnam county, Ga., in September, 1825. Moved to Oxford, Miss. Was graduated at Emory College, Ga., 1845. Studied law in Macon, Ga. Admitted to the bar 1847. Returned to Oxford, Miss., 1849. Professor of mathematics in the University Mississippi. Resumed practice in Covington, Ga. Member of Georgia legislature 1853. Returned to Mississippi 1854, and settled at Lafayette. Member of congress (Democrat) 1857-1860. Resigned. Member of the Mississippi secession convention. Colonel in



Confederate army, and commissioner to Russia in 1863. Returned to Mississippi after the war. Professor of political economy and social science in University of Mississippi 1866; professor of law 1867. Resigned, and resumed practice. Member of congress (Democrat) 1872-1877. United States senator 1877. Secretary of the interior March 5, 1885. Associate justice of the United States supreme court, commissioned Jan. 23, 1888. Assigned to the fifth circuit. Died in Macon, Ga., Jan. 23, 1893.

LAURANCE, JOHN. Born in Cornwall, Eng., 1750. Removed to New York 1767. Admitted to the bar 1772. Aide de camp to Washington. Presided over Andre's trial as judge advocate general. Member of congress 1785-1786. Member of legislature and of congress 1789. United States district judge for the district of New York, commissioned May 6, 1794. Ceased to be district judge in December, 1796. United States senator 1796-1800. Presided over the senate in 1798. Died in November, 1800.

LAW, RICHARD. Son of Jonathan Law, chief justice and governor of Connecticut colony. Born in Milford, Conn., March 17, 1733. Was graduated at Yale, 1751. Studied law with Jared Ingersoll. Admitted to the bar in 1754. Practiced in New London. Judge of the county court. Member of general assembly, of the council, 1776-1786; of congress 1777-1778 and 1781-1784. Revised and codified the statutes of Connecticut with Roger Sherman. Judge of the state supreme court 1784. Chief justice May, 1786. Mayor of New London 1784. United States district judge for the district of Connecticut (commissioned Sept. 26, 1789) until his death in New London, Jan. 26, 1806. LL.D., Yale, 1802.

LAWRENCE, PHILIP K. Born in New York. United States district judge for the district of Louisiana, commissioned Sept. 12, 1837. Died May 19, 1841, at New Orleans, La.

LEAVITT, HUMPHREY HOWE. Born in Suffield, Conn., June 18, 1796. Removed with his parents to Warren, Ohio, in 1799. Served in the war of 1812. Received a classical education, and was admitted to the bar in 1816. Commenced the practice of his profession at Cadiz, Ohio, and in the second year of his residence there was elected justice of the peace. Removed to Steubenville. Was prosecuting attorney, which position he held for ten years. Elected a member of the legislature from Jefferson county in 1825, and a member of the state senate in 1827. Appointed clerk of the court of common pleas and supreme court of the county in 1829. Elected a member of congress in 1830. Re-elected twice, but before taking his seat for his third term was appointed United States district judge for the district of Ohio, commissioned June 30, 1834. Upon the division of the state into two districts he was assigned to the southern district, removing to Cincinnati. Resigned March 30, 1871. Appointed a representative of the prison reform congress at London, in 1872. Died in the same year.

LEE, THOMAS. Born in Charleston, S. C., Dec. 1, 1769. Educated in his native city, and was admitted to the bar in 1790. Was soon elected a member of the legislature, and

in 1794 was appointed one of the three circuit solicitors. Was clerk of the house of representatives from 1798 to 1804. Elected one of the associate law judges of the state. Became comptroller general shortly after, holding this office for 12 years. President of State Bank from 1817 until his decease. In 1822 was chairman of the committee of ways and means in the legislature. District judge for the district of South Carolina, commissioned Feb. 17, 1823. Died at Charleston, Oct 23, 1839.

LEWIS, WILLIAM. Born in Chester county, Pa., in 1751. Studied law with Nicholas Waln of Philadelphia, with whom he subsequently practiced for several years, having been admitted to the bar in 1773. United States district attorney for the district of Pennsylvania, Oct. 6, 1789. United States district judge for the same district, commissioned July 14, 1791. Ceased to be district judge in 1792. Died Aug. 20, 1819. He was a member of the Society of Friends, and was the author of the act of 1780 abolishing slavery in Pennsylvania.

LIVINGSTON, HENRY BROCKHOLST. Son of Gov. Livingston of New Jersey. Born in New York city, Nov. 20, 1757. Was graduated at Princeton in 1774. Lieutenant colonel in the Revolution. Private secretary to his brother-in-law, John Jay, in Spain, 1779-1782. Captured on the return voyage. Studied law at Albany with Peter Yates. Admitted to the bar 1783. Removed to New York city. Dropped his first name. Puisne judge of state supreme court 1802. Associate justice of the United States supreme court, commissioned Nov. 10, 1806. Assigned to the second circuit. LL. D., Harvard, 1818. Wrote political articles for the press under the name of "Decius." Died in Washington, D. C., March 18, 1823.

LOCKE, JAMES W. Born in Wilmington, Vt., Oct. 30, 1837. Received an academic education. Studied law with Hon. William Stark, Manchester, N. H. Was an officer in the United States navy 1861-1865. Subsequently practiced his profession at Key West, Fla. Appointed clerk of the United States courts for the southern district of Florida in 1866. Became county judge in 1868. Elected to the state senate in 1870. District judge for the southern district of Florida, commissioned Feb. 1, 1872.

LONGYEAR, JOHN WESLEY. Born in Shandaken, Ulster county, N. Y., Oct 22, 1820. Educated at Lima, N. Y. Removed to Michigan 1844. Admitted to the bar in 1846. Settled in Lansing. Member of congress (Republican) 1862-1867. Member of the loyalist convention in Philadelphia 1866. Member of Michigan constitutional convention 1867. United States district judge for the eastern district of Michigan, commissioned Feb. 18, 1870. Died in Detroit, Mich., March 11, 1875.

LOVE, JAMES M. Born in Fairfax county, Va., 1820. Removed to Muskingum county, Ohio, 1833. Studied law with his brother in Virginia, and with Judge Richard Stillwell at Zanesville, Ohio. Practiced in Coehocton county, Ohio. Captain in the Mexican War. Resumed practice in Ohio 1847. Removed to Keokuk, Iowa. Member of legislature 1852. United States district judge for the district of Iowa, commissioned Oct. 5, 1855. United States district judge for the southern district of Iowa, commissioned July 20, 1882. Died July 2, 1891.

LOWELL, JOHN. Born in Newburyport, Mass., June 17, 1743. Was graduated at Harvard in 1760. Admitted to the bar 1762. Member of legislature 1776-1778. Moved to Boston 1777. Member of the Massachusetts constitutional convention of 1780, and was active in securing the clause indirectly abolishing slavery. Member of congress 1782-1783. Appointed by congress one of three judges to try appeals in admiralty 1782. Member of Massachusetts and New York boundary commission 1784. United States district judge for the district of Massachusetts, commissioned Sept. 26, 1789. United States circuit judge for the first circuit, commissioned Feb. 20, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. LL. D., Harvard, 1792. Member of the Harvard-Corporation. One of the founders of the American Academy of Arts and Sciences. Died in Roxbury, Mass., in May, 1802.

LOWELL, JOHN. A descendant of Judge John Lowell (1742-1802.) Born in Boston, Mass., Oct. 18, 1824. Was graduated at Harvard in 1843. Admitted to the bar 1846. Practiced in Boston. United States district judge for the district of Massachusetts, commissioned March 11, 1865. United States circuit judge for the first circuit, commissioned Dec. 18, 1878. Resigned May 1, 1884. His decisions have been published in two volumes.

LURTON, HORACE H. Born in Campbell county, Ky., Feb. 26, 1844. Educated at Douglass University, Chicago, and Cumberland University, Tenn. Removed to Clarksville, Tenn., in Aug., 1861. Served in the Confederate army. Practiced law at Clarksville, Tenn., from 1867 to 1874, in copartnership with Hon. James E. Bailey. Appointed chancellor of the sixth chancery division of Tennessee, Feb. 1, 1874. Elected to the same position in August, 1876. Resigned in 1878 to resume the practice of his profession with Hon. C. G. Smith at Clarksville. Elected associate justice supreme court of

Tennessee, Aug. 1886. Elected chief justice, Jan., 1893. United States circuit judge for the sixth circuit, commissioned March 27, 1893.

**MCALLISTER, MATTHEW HALL.** Born in Savannah, Ga., Nov. 26, 1800. Educated at Princeton. Admitted to the bar about 1820. Practiced in Savannah. United States district attorney for the district of Georgia 1827. Opposed nullification in 1832. Member of legislature and secured the establishment of the court for the correction of errors. Unsuccessful Democratic candidate for governor 1845. Mayor of Savannah, and a friend to the negroes. Member of the Democratic national convention of 1848. Removed to San Francisco in 1850, and practiced there. United States circuit judge for California, commissioned March 3, 1855. Resigned April 7, 1862. Energetic in suppressing the vigilance committee. Author of a eulogy on President Jackson. His opinions were published by his son. Died in San Francisco, Cal., Dec. 19, 1865. LL.D., Columbia.

**MCALLISTER, WARD, JR.** Born at Newport, R. I., July 27, 1855. Educated at Princeton. Graduated at Albany Law School, and was admitted to the New York bar. Studied at Harvard Law School for four years. Removed to California, and in 1882 was appointed assistant United States attorney, which office he held for two years. First United States district judge for the district of Alaska, commissioned July 5, 1884, which office he held until Aug. 28, 1885. Returned to San Francisco, and was appointed by Judge Ogden Hoffman a special commissioner in Chinese habeas corpus cases. He subsequently resigned this position to become counsel for the Pacific Mail Steamship Company. His grandfather, Matthew Hall McAllister, was first United States judge of California.

**McCALEB, THEODORE H.** Born in Pendleton District, S. C., Feb. 10, 1810. Educated at Phillips' Exeter Academy and at Yale. Removed to New Orleans in 1833, and was later admitted to the Louisiana bar. United States district judge for the district of Louisiana, commissioned Sept. 3, 1841. Held this position until Jan. 26, 1861, at the breaking out of the civil war. Died at Claiborne county, Miss., April 29, 1864. He was for three years president of the University of Louisiana, and for nearly seventeen years professor of admiralty and international law in the same institution. Was an accomplished linguist, and delivered an oration on the dedication of the Lyceum, and eulogies upon his friends Henry Clay and S. S. Prentiss. It is said that he was the only federal judge in the

South who was not commissioned a Confederate justice by the Confederate States government.

McCANDLESS, WILSON. Born in Pittsburgh, Pa., June 19, 1810. Was graduated at the Western University of Pennsylvania. Admitted to the bar in 1831. United States district judge for the western district of Pennsylvania, commissioned Feb. 8, 1859. Resigned July 24, 1876. Died in Pittsburgh, Pa., June 30, 1882.

McCAY, HENRY KENT. Born in Northumberland county, Pa., Jan. 8, 1820. Was graduated with distinction at Princeton in 1839. Removed to Lexington, Oglethorpe county, Ga.; taught school and studied law. Removed to Americus, Ga., 1842. Admitted to the bar and practiced there. Lieutenant in the Confederate army during the Civil War. Resumed practice in Americus. Became a strong Republican. Member of Georgia constitutional convention, 1868. Justice of the state supreme court. Resigned, and practiced in Atlanta. United States district judge for the northern district of Georgia, commissioned Aug. 4, 1882. Died at Atlanta, Ga., July 30, 1886.

McCLUNG, WILLIAM. United States circuit judge for the sixth circuit, commissioned Feb. 24, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802.

McCORMICK, ANDREW PHELPS. Born in Brazoria county, Tex., Dec. 18, 1832. Was graduated from Center College, Ky., in 1854. Admitted to the bar 1855. Practiced in Brazoria. Judge of probate 1865-1866. Member of the Texas constitutional conventions of 1866 and 1868. Judge of state circuit court 1871-1876. Member of legislature 1876-1879. United States district attorney for the eastern district of Texas 1878, but did not qualify. United States district judge for the northern district of Texas, commissioned April 10, 1879. Removed to Dallas 1879. Thence to Graham 1883. United States circuit judge for the fifth circuit, commissioned March 17, 1892, under the judiciary act of March 3, 1891.

McCRARY, GEORGE WASHINGTON. Born in Evansville, Ind., Aug. 29, 1835. His parents removed with him to what is now Iowa in 1836. Educated in a public school and an academy. Admitted to the bar in Keokuk, Iowa, 1856. Member of legislature 1857 and 1861-1865; chairman of committee on military affairs. Member of congress (Republican) 1868-1877. Introduced the bill for the electoral commission of 1877. Secretary of war March 12, 1877. Resigned 1879. United States circuit judge for the eighth circuit, commissioned Dec. 9, 1879. Resigned March, 1884. Practiced law in Kansas City, Mo. Author of "The American Law of Elections."

McDONALD, DAVID. Born in Bourbon county, Ky., May 8, 1803. Educated at the common schools of Indiana, where he removed with his parents. Studied law in Bloomington, and was admitted to the bar in 1830. Elected a member of the legislature in 1833, and prosecuting attorney in 1834. Appointed judge of the tenth judicial circuit of Indiana in 1838, serving 14 years. United States district judge for the district of Indiana, commis-

sioned Dec. 13, 1864. Died Aug. 25, 1869. Was the author of "McDonald's Treatise," a work on practice in Indiana, and held a professorship in the Indiana University, from which institution he had received the degree of LL.D.

McINTOSH, MCQUEEN. Native of Georgia. An early emigrant to Florida. Was presidential elector. United States district judge for the northern district of Florida, commissioned March 11, 1856. Ceased to be judge, Jan. 10, 1861. Was member of secession convention of Florida. Died in Pensacola in 1868.

McKENNA, JOSEPH. Born in Philadelphia. Removed to San Francisco in 1855. Educated in common schools of San Francisco, and St. Augustine College, at Benicia. Admitted to the bar at the age of 22. Elected district attorney of Solano county the same year. Sent to the legislature from that county in 1875. Was elected to congress, which office he held for four consecutive terms. United States circuit judge for the ninth circuit, commissioned March 17, 1892. Appointed attorney general of the United States by President McKinley March 4, 1897.

McKENNAN, WILLIAM. Born in Washington, Pa., Sept. 27, 1816. Educated at Jefferson College, graduating in 1833, subsequently taking a post graduate course at Yale. Studied law with his father, Thomas M. T. McKennan, and was admitted to practice in 1837. United States circuit judge for the third circuit, commissioned Dec. 22, 1869, having, it is said, declined a position upon the supreme bench of the United States offered him by President Grant. Retired from the bench Jan. 3, 1891. Died at his home in Pittsburgh, Oct. 27, 1893. He was a delegate to the peace congress in 1860. Presidential elector same year, and has been a delegate to the Republican state and national conventions a number of times.

McKINLEY, JOHN. Born in Culpepper county, Va., May 1, 1780. Began practice in Louisville, Ky. Removed to Huntsville, Ala. Member of Alabama legislature. United States senator 1826-1831. Removed to Florence, Ala. Member of congress 1833-1835. In 1835 he was again elected for the senate, from which place he was transferred

by President Van Buren to the supreme court, commissioned April 22, 1837. Assigned to the fifth circuit, March 3, 1845. Died in Louisville, Ky., July 19, 1852.

McKINNEY, JOHN MCDOWELL. Born in Lycoming county, Pa., in 1829. Was graduated from Princeton in 1848. Studied law at Williamsport, Pa., and was admitted to the bar, Sept. 3, 1850. Soon after the election of President Lincoln he was appointed to a clerkship in the solicitor's office of the treasury department at Washington, and was the author of the first internal revenue laws. United States district judge for the southern district of Florida, commissioned Nov. 8, 1870. Died Oct. 12, 1871.

McLEAN, JOHN. Born in Morris county, N. J., March 11, 1785. Removed to Warren county, Ohio, 1799. Studied law in Cincinnati, while engaged as a deputy in the clerk's office. Admitted to the bar 1807, practicing in Lebanon. Member of congress (Democrat) 1812-1816. Judge of the Ohio supreme court 1816-1822. Commissioner of the land office 1822. Postmaster general 1823-1829. Declined secretaryship of war and navy 1829. Associate justice of United States supreme court, commissioned Feb. 11, 1830. Assigned to the seventh circuit. Candidate for presidential nomination (Free Soil) in 1848, and in the Republican conventions of 1856 and 1860. Wrote a dissenting opinion in the Dred Scott Case. Died in Cincinnati, April 4, 1861.

McNAIRY, JOHN. Born in North Carolina in 1762. Removed to Tennessee in 1789. Was member of constitutional convention, Jan. 11, 1796. United States district judge for the district of Tennessee, commissioned Feb. 20, 1797. Upon the abolishment of that district was assigned to the eastern and western districts of Tennessee, commissioned July 1, 1802. Resigned 1834. McNairy county was named from him. Died at Nashville, Nov. 12, 1837.

MAGILL, CHARLES. United States circuit judge for the fourth circuit, commissioned March 3, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802.

MAGRATH, ANDREW GORDON. Born in Charleston, S. C., Feb. 8, 1813. Educated at the private school of Bishop England. Was graduated from South Carolina College with the highest honors in 1831. Studied law in the office of James L. Petigru and at Harvard Law School. Elected a member of the state legislature in 1840, serving two terms. United States district judge for the district of South Carolina, commissioned May 12, 1856. Resigned upon the election of Mr. Lincoln as president, Nov. 7, 1860, and was thereafter appointed Confederate district judge for the same district. Elected governor of South Carolina in Dec., 1864, and at the end of the civil war was imprisoned with other Confederates in Fort Pulaski. After his release he returned to the bar, and for many years enjoyed a large practice. Died at Charleston, April 9, 1893.

MARCHANT, HENRY. Born in Martha's Vineyard, Mass., in April, 1741. Was graduated at Philadelphia College 1762. Studied law under Edmund Trowbridge, at

Cambridge, Mass. Settled in Newport, R. I. Attorney general of Rhode Island 1770-1777. Member of legislature. An ardent Whig in the Revolution. Member of congress 1777-1780 and 1783-1784. Member of state convention to ratify the constitution. United States district judge for the district of Rhode Island, commissioned July 3, 1790. Died in Newport Aug. 30, 1796. LL. D., Yale, 1792.

MARSHALL, JAMES. Brother of Chief Justice Marshall. Born in Farquier county, Va., March 12, 1764. Lieutenant in Alexander Hamilton's regiment in the Revolution. Went to Kentucky 1785. A vigorous opponent of the "Spanish intrigue" there. Returned to Virginia 1795. Married the daughter of Robert Morris. Appointed by Washington to negotiate for the release of Lafayette during the French Revolution. Purchased the Fairfax estates in Virginia. Judge of the United States circuit court for the District of Columbia, commissioned March 3, 1801. Resigned 1803. Died in Farquier, Va., April 26, 1848.

MARSHALL, JOHN. Born in Farquier county, Va., Sept. 24, 1755. Educated at home. Captain in Revolutionary army. Attended law lectures by George Wythe in Richmond, 1780, while on duty there. Admitted to the bar 1780. Resigned in January, 1781, and studied law. Began to practice as soon as the courts reopened. Member of legislature and executive council. Removed to Richmond 1783. Member of the Virginia convention to ratify the federal constitution. of which he was an enthusiastic supporter, and with Madison had great influence in securing the ratification. Declined attorney generalship of the United States 1795. Argued the case of the British debts (*Ware v. Haylton*.) before the United States supreme court in 1796. Declined the place of minister to France 1796. Joint envoy to France with Charles C. Pinckney and Elbridge Gerry, June, 1797. Talleyrand attempted to bribe the envoys, and they withdrew from France. The publication of this correspondence, called the "X. Y. Z." letters, aroused great Federalist enthusiasm in the United States. Marshall was elected to congress (Federalist) in April, 1799. Made a famous speech on extradition relative to the case of Thomas Nash. Nominated secretary of war, but before confirmation was made secretary of state. Chief justice of the United States, commissioned Jan. 31, 1801. Assigned to the fifth circuit. Died in Philadelphia, July 6, 1835. His decisions



on the supreme bench are found in the United States Reports from 1 Cranch to 9 Peters; those delivered on circuit are contained in Brockenbrough's Reports. Presided at the trial of Aaron Burr in 1807. Member of Virginia constitutional convention 1829. Author of a "Life of Washington," of which the first volume is sometimes called "A History of the American Colonies."

MARVIN, WILLIAM. Born at Fairfield, Herkimer county, N. Y., in 1808. Received his early training on a farm. Was educated in the common schools and at Homer Academy. Taught school. Afterwards studied law, and was admitted to the bar in 1834. United States district attorney for the southern district of Florida in 1835. While holding this office he was twice elected a member of the legislative council. Was also a member of the first constitutional convention of the state of Florida. On the resignation of Judge Webb, in 1839, he was appointed judge of that court, and after the admission of Florida into the Union he was appointed United States district judge for the southern district of Florida, commissioned March 3, 1847. Resigned July 1, 1863. In 1865 he was appointed provisional governor of Florida to assist in the reconstruction of the state government. Resides at Skaneateles, N. Y. He is the author of a "Treatise on the Law of Wreck and Salvage," a small work on "International General Average," and the "Authorship of the Four Gospels."

MASON, JOHN YOUNG. Born in Greensville, Sussex county, Va., April 18, 1799. Was graduated at the University of North Carolina in 1816. Studied law in Litchfield, Conn. Admitted to the bar 1819. Practiced in Southampton county, Va. Member of legislature, of the Virginia constitutional convention of 1827; of congress, (1831-1837;) being chairman of the committee on foreign affairs. United States district judge for the eastern district of Virginia, commissioned March 3, 1841. Resigned March 5, 1844. Secretary of the navy 1844. United States attorney general 1845. Transferred to the navy department again. Removed to Richmond, Va., 1849, and resumed practice. President of the Virginia constitutional convention of 1850. United States minister to France from 1850 until his death, in Paris, Oct. 3, 1859. LL.D., University of North Carolina.

MATTHEWS, STANLEY. Born in Cincinnati, Ohio, July 21, 1824. Was graduated at Kenyon College 1840. Admitted to the bar. Settled in Maury county, Tenn., but returned to Cincinnati. Anti-slavery editor 1846-1849. Common pleas judge 1851. State senator 1855. United States district attorney for the southern district of Ohio 1858-1861. Colonel of the fifty-seventh Ohio regiment during the Civil War. Resigned 1863. Judge of the Cincinnati superior court 1863. Resigned 1864. Presidential elector for Lincoln 1864, and for Grant 1868. Republican candidate for congress 1876. Counsel (Republican) before the electoral commission in 1877. United States senator 1877. Associate justice of the United States supreme court, commissioned Jan. 30, 1882. Assigned to the sixth circuit. Died at Washington, D. C., March 22, 1889.

MAXEY THOMAS S. Born in Brandon, Miss., Sept. 1, 1846. Educated at the University of Mississippi and University of Virginia. Was in the Confederate army in 1864-1865. Received the degree of B. L., University of Virginia, 1869. Elected a member of the Mississippi legislature in the fall of the same year. Removed to Jefferson, Tex., in Dec., 1870. Was city attorney in 1873-1874. Removed to Austin in Feb., 1877. United States district judge for the western district of Texas, commissioned June 25, 1888. LL.D., University of Mississippi, 1888.

MERRICK, WILLIAM MATTHEWS-Born in Charles county, Md., Sept. 1, 1818. Liberally educated. Admitted to the bar in Baltimore, 1839. Settled in Frederick, Md., 1844. Deputy attorney general for that county 1845-1850. Moved to Washington, D. C., in 1854 and became a judge of the United States circuit court for the District of Columbia, commissioned Dec. 14, 1855. After the court was abolished, March 3, 1863, he practiced in Maryland. Member of legislature 1870; of congress (Democrat) 1871-1873; of state constitutional convention 1867. Associate justice of the supreme court of the District of Columbia, May 4, 1885.

MILLER, ANDREW G. Born at Carlisle, Pa., Sept. 18, 1801. Was educated at Dickinson College, and at Washington College, from which institution he was graduated with honors in 1819. Studied law with Andrew Caruthers, Esq., of Carlisle. Was admitted to the bar of Cumberland county in 1822. Practiced law for 16 years, during which time he held the office of deputy attorney general. Appointed associate justice for Wisconsin territory, Nov. 8, 1838. Reaching Milwaukee in 31 days, he took the oath of office on the 10th of December. He was assigned by the governor and legislature to the eastern territorial district, comprising Green Bay, Milwaukee, and the Lake Shore. United States district judge for the eastern district of Wisconsin, commissioned June 12, 1848. Resigned Dec. 31, 1873. Died Sept. 30, 1874.

MILLER, SAMUEL FURMAN. Born in Richmond, Ky., April 5, 1816. Was graduated in medicine at Transylvania University in 1838, and practiced for a time, but afterwards became a lawyer. Favored emancipation. Removed to Iowa in 1850, and became a leader of the Republican party there. Associate justice of the United States supreme court, commissioned July 16, 1862. Assigned to the eighth circuit, April 8, 1867.

Orator at the constitutional centennial celebration in Philadelphia, Sept. 15, 1887. Died Oct. 13, 1890.

MONROE, THOMAS B. Born in Albermarle county, Va., Oct. 27, 1791. Educated in Scott county, Ky. Elected member of the legislature from Barren county in 1816. Began the study of law in 1819. Removed to Frankfort in 1821. Was graduated from Transylvania University in 1822. Secretary of state of Kentucky in 1823. Reporter of the court of appeals in 1825. United States district attorney from 1833 to 1834. United States district judge for the district of Kentucky, commissioned March 8, 1834, resigning in 1861. Died at Pass Christian, Miss., Dec. 24, 1865. He was a relative of President Monroe. He published Monroe's Kentucky Reports in seven volumes. In 1848 he was professor in the University of Louisiana. Filled the chair of civil, international, and criminal law in Transylvania University. Professor of rhetoric, logic, and history of the law at the Western Military Academy at Drennon Springs. LL.D., University of Louisiana, Centre College, and Harvard University.

MOORE, ALFRED. Born in North Carolina, May 21, 1755. Was educated in Boston, Mass. Captain in the Revolutionary army. He was appointed attorney general of North Carolina in 1790, without previous legal education. State judge 1798. Appointed associate justice of the United States supreme court Dec. 10, 1799. Assigned to the sixth circuit July 1, 1802. Resigned March, 1804. Died in Blair county, N. C., Oct. 15, 1810.

MORRILL, AMOS. Born in Salisbury, Mass., Aug. 25, 1809. Was graduated at Bowdoin in 1834. Studied law at Salisbury. Removed to Tennessee 1836, and to Texas 1839. Judge of Texas supreme court 1867. Chief justice. United States district judge for the eastern district of Texas, commissioned Feb. 5, 1872. Ceased to be district judge in March, 1884. Died 1885.

MORRIS, ROBERT. Born in New Brunswick, N. J., 1745. First chief justice of New Jersey under the constitution of 1776. Appointed Feb. 5, 1777. Resigned 1779. United States district judge for the district of New Jersey, commissioned Aug. 28, 1790. Died May 2, 1815, in New Brunswick, N. J. His bad health prevented his attendance in court in the latter part of his life, but there was so little business that this caused no inconvenience.

MORRIS, THOMAS J. Born in Baltimore, Md., Sept. 24, 1837. Was graduated at Harvard in 1856. Admitted to the bar in Maryland, 1859. Practiced in Baltimore. United States district judge for the district of Maryland, commissioned July 1, 1879.

MORROW, WILLIAM W. Born near Milton, Wayne county, Ind., July 15, 1843. Removed with his family to Illinois in 1845. Upon the death of his father he returned to Indiana in 1853, and again to Illinois in 1855. Removed to California in 1859. Appointed to a clerkship in the United States treasury department in Washington in 1863. As a member of the National Rifles in the District of Columbia he was called into service in

1863-1864. Was sent to California as a special agent of the treasury department in 1865, serving four years. Studied law in Washington and in California, and was admitted to the bar in the latter state in 1869. Appointed assistant United States attorney in 1870, serving four years. Elected chairman of the Republican state central committee in 1879. Elected attorney for the board of state harbor commissioners in 1880. Was special counsel for the United States before the French and American claims commission 1881 to 1883; also for the Alabama claims commission 1882-1885. Delegate to the Republican national convention in 1884, and was chairman of the California delegation. Elected to the 49th congress from the San Francisco district in Nov., 1884. Re-elected in 1886 and in 1888. Declined a nomination in 1890. While a member of the house of representatives he served on the committees on commerce, immigration, foreign affairs, and appropriations, and frequently as speaker pro tem. Became an honorary member of the San Francisco Chamber of Commerce, July 9, 1889, and became an honorary member of the Mechanics' Institute of San Francisco, June 8, 1889. United States district judge of the northern district of California, commissioned Sept. 18, 1891. Lecturer on admiralty jurisdiction in the United States in Leland-Stanford University.

MORSELL, JAMES SEWALL. Born in Calvert county, Md., Jan. 10, 1775. Practiced in the District of Columbia. Served in the war of 1812. Associate judge of the circuit court for the District of Columbia commissioned Jan. 11, 1815. Held office until the abolition of the court, March 3, 1863. Died in Prince George county, Md., Jan. 11, 1870. Friend of Francis Scott Key and Judge Taney.

NELSON, RENSSELAER RUSSELL. Son of Justice Samuel Nelson. Born in Coopers-town, N. Y., May 12, 1826. Was graduated at Yale in 1846. Admitted to the bar in native city in 1849. Removed to St. Paul, Minn., 1850. Associate justice of the territorial supreme court from April 23, 1857, to May 11, 1858. United States district judge for the district of Minnesota, commissioned May 20, 1858. Retired May 16, 1896. He was, in point of service, the oldest federal district judge in the United States.

NELSON, SAMUEL. Born in Hebron, Washington county, N. Y., Nov. 10, 1792.

Was graduated at Middlebury in 1813. Studied law at Salem, N. Y., under Chief Justice Savage. Admitted to the bar in Madison, N. Y., 1817. Presidential elector 1820. Member of the state constitutional convention 1822. Circuit judge 1823-1831. Associate justice of the New York supreme court 1831. Chief justice 1837-1845. Member of the state constitutional convention of 1844. Associate justice of the United States supreme court, commissioned March 3, 1845. Assigned to the second circuit. Concurred in the Dred Scott decision. Resigned Dec. 1, 1872. Member of the Alabama arbitration commission 1871. Died in Cooperstown, N. Y., Dec. 13, 1873. LL. D., Columbia, 1841; also Middlebury and Geneva Colleges.

NELSON, THOMAS LEVERETT. Born in Haverhill, N. H., March 4, 1827. Entered Dartmouth 1842. Removed to Burlington, Vt., 1844. Was graduated at the University of Vermont in 1846. Civil engineer 1846-1853. Studied law in Worcester, Mass.; admitted to the bar in 1855, and practiced there. Member of legislature 1869. Chairman of judiciary committee. City solicitor of Worcester 1870-1873. United States district judge for the district of Massachusetts, commissioned Jan. 10, 1879. LL.D., University of Vermont, 1885. Member of the American Antiquarian Society.

NEWMAN, WILLIAM T. Born in Knoxville, Tenn., June 23, 1843. Educated in his native city. Entered the Confederate army in the spring of 1861. Was a lieutenant of cavalry during the war. Studied law in Atlanta, Ga., and was admitted to the bar in 1866. Was city attorney 1871-1883. United States district judge for the northern district of Georgia, commissioned Aug. 13, 1886.

NICOLL, JOHN O. Born in Savannah, Ga., about 1794. He removed with his parents to New Jersey, and, on attaining his majority, returned to Savannah, and engaged in the practice of the law. Was recorder of the city. Served several years as member of the legislature. Was at one time captain of the Republican Blues. Was judge of the city court of Savannah, mayor of the city, and judge of the superior court. United States district judge for the district of Georgia, commissioned May 11, 1839. Ceased to be district judge, Jan. 19, 1861. At the breaking out of the war he was appointed Confederate States district attorney, which office he held until his decease, in the city of Savannah, Nov. 16, 1863.

NILES, HENRY C. Born in Kosciusko, Miss., Oct. 21, 1850. Was representative in state legislature in 1878 and 1886. United States district attorney for the northern district of Mississippi from June 24, 1889, to Aug. 17, 1891. United States district judge for the northern and southern districts of Mississippi, commissioned Aug. 17, 1891.

NIXON, JOHN THOMPSON. Born in Fairton, N. J., Aug. 31, 1820. Was graduated at Princeton in 1841. Admitted to the bar of Virginia 1844, and of New Jersey 1845. Practiced in Bridgeton, N. J. Member of the legislature 1848-1849. Speaker 1849. Member of congress (Republican) 1859-1863. Member of the Philadelphia Loyalists' convention 1866. United States district judge for the district of New Jersey, commissioned

April 28, 1870. Trustee of Princeton. Prominent in the Old School Presbyterian Church. Edited "Nixon's Digest of the Laws of New Jersey." Author of a treatise on "New Jersey Procedure." Died Sept. 28, 1889.

OGIER, ISAAC S. K. Born in Charleston, S. C., July 27, 1819. Educated in native city. Studied and practiced law in New Orleans. Removed to California. Settled in Los Angeles. Was a member of the first California legislature. United States district judge for the southern district of California, commissioned Jan. 23, 1854. Died in July, 1861.

PACA, WILLIAM. Born at Wye Hall, Harford county, Md., Oct. 31, 1740. Of an old Maryland family. Was graduated at Philadelphia College, 1759. Studied law in the Middle Temple, London, beginning Jan. 14, 1762. Admitted to the bar 1764. Practiced in Annapolis, Md. Opposed the stamp act. Member of the legislature 1771-1774; of the committee of correspondence 1774; of congress 1774-1779. Signer of the Declaration of Independence. State senator 1777-1779. Chief judge of the Maryland superior court 1778-1780. Chief judge of the (federal) court of appeals in prize and admiralty cases for two years, beginning 1780. Governor of Maryland 1782-1786.. Member of the Maryland convention to ratify the federal constitution 1788. United States district judge for the district of Maryland, commissioned Dec. 22, 1789. Died at Wye Hall, in Oct., 1799.

PAINE, ELIJAH. Born in Brooklyn, Conn., Jan. 21, 1757. Was graduated at Harvard 1781. Admitted to the bar 1784. Practiced in Vermont. Member and secretary of the Vermont constitutional convention of 1786. Commissioner to adjust the differences between New York and Vermont 1789. Member of legislature 1789-1791. Judge of state supreme court 1791-1795. United States senator (Federalist) 1795-1801. United States district judge for Vermont, commissioned March 3, 1801. Resigned March, 1842. Died April 28, 1842. Member of the American Academy of Arts and Sciences and of the American Antiquarian Society. Trustee of Dartmouth and Middle-bury Colleges and of the University of Vermont. First Phi Beta Kappa orator at Harvard 1782. A. B., (Hon.,) Dartmouth, 1786. LL. D., Harvard, 1812; and University of Vermont, 1825. Resided at Williamstown.

PARDEE, DON A. Born at Wadsworth, Ohio, March 29, 1837. Entered the United States Naval Academy 1854. Resigned 1857. Admitted to the bar 1859. Served in the Union army during the war. Brevet brigadier general. Settled in New Orleans, La., 1865. Register in bankruptcy 1867. State judge of the second judicial district 1868-1880. Member of the Louisiana constitutional convention 1879. United States circuit judge for the fifth circuit, commissioned March 13, 1881.

PARKE, BENJAMIN. Born in New Jersey in 1779. Was the first attorney general for the territory of Indiana, and its first delegate in congress. Captain of cavalry company in Indian war, and participated in the battle of Tippecanoe. Was Indian agent under the territorial government, and member of the state constitutional convention. Was president of State Historical Society. United States district judge for the district of Indiana, commissioned March 6, 1817. Died July 12, 1835.

PARKER, ISAAC C. Born in Belmont county, Ohio, Oct. 15, 1838. Received academic education. A school teacher for four years. Admitted to the bar 1859. Removed to St. Joseph, Mo. City attorney 1862-1867. Served with the state troops during the war. Presidential elector 1864. State circuit judge 1868. Member of congress 1871-1875. Chief justice of Utah territory 1875. United States district judge for the western district of Arkansas, commissioned March 19, 1875. Was a celebrated judge in criminal cases, the number docketed having reached the enormous total of 13,490. Died Nov. 17, 1896.

PARLANGE, CHARLES. Born in New Orleans, La., July 23, 1851. Educated at home by private tutors during the war. Afterwards at Centenary College, Jackson, La. Was honorary United States commissioner for Louisiana to Paris Exposition in 1878. Delegate to constitutional convention in 1879. Member of state senate 1880-1885, when he resigned, to accept position of United States attorney for eastern district of Louisiana, for four years. Was elected lieutenant governor in 1892. Resigned 1893, to become justice of Louisiana supreme court. Resigned on being appointed United States district judge for eastern district Louisiana, commissioned Jan. 15, 1894.

PARRIS, ALBION KEITH. Born in Auburn, Oxford county, Me., Jan. 19, 1788. Was graduated at Dartmouth in 1806. Admitted to the bar in 1809. Began practice in Paris, Me. Prosecuting attorney for Oxford county, 1811. Member of legislature (Massachusetts) 1813-1814; of congress (Democrat) 1815-1819. United States district judge for the district of Maine, commissioned Jan. 28, 1818. Ceased to be district judge, Jan., 1822. Moved to Portland. Member of Maine constitutional convention 1819. Resigned Dec., 1821. Judge of probate for Cumberland county 1820. Governor 1821-1826. United States senator 1826. Resigned 1828. Judge of the supreme court of Maine 1828-1836. Second comptroller of the United States treasury 1836-1850. Re-tired to Portland 1850. Mayor 1852. Died there, Feb. 11, 1857.

PATERSON, WILLIAM. Born at sea 1745. His parents were Irish, and brought him to America when two years old. Was graduated at Princeton in 1763. Studied law with Richard Stockton. Admitted to the bar in 1769. Member of New Jersey constitutional convention, and of the legislative council. Attorney general for the state in 1776. Member of congress 1780-1781. Prominent in the federal constitutional convention of 1787, and introducer of the "New Jersey Plan." United States senator 1789. Governor of New Jersey 1791. Associate justice of the United States supreme court, commissioned March 4, 1793. Died in Albany, N. Y., Sept. 19, 1806. LL. D., Harvard, 1806, and Dartmouth. Published a revised edition of the laws of New Jersey, by authority of the legislature.

PAUL, JOHN. Born in Rockingham county, Va., June 30, 1839. Served in the Confederate army during the Civil War. Was graduated in law at the University of Virginia, 1867. Commonwealth attorney 1870-1877. Member of legislature 1877. Member of congress 1881. United States district judge for the western district of Virginia, commissioned March 3, 1883.

PEABODY, GEORGE A. Provisional judge for the district of Louisiana, commissioned Oct. 20, 1862. Ceased to be judge, July 28, 1866.

PECK, JAMES H. Born in Tennessee. Removed to Missouri. Impeached in 1826, because of difficulties with Luke C. Lawless. Acquitted. United States district judge for the district of Missouri, commissioned April 5, 1822. Retired March 8, 1836. Died in St. Charles, Mo., May 1, 1837.

PENDLETON, NATHANIEL. Born in Culpepper county, Va., 1756. Was a major on Gen. Greene's staff in the Revolutionary War. Removed to Georgia, and studied law. United States district judge for the district of Georgia, commissioned Sept. 26, 1789. Ceased to be district judge in 1796. Removed to New York. Judge of Dutchess county, N. Y. He was a member of the federal constitutional convention in 1787, but did not sign that instrument. Was Hamilton's second in the fatal duel with Burr. Died in New York city, Oct. 20, 1821.

PENDLETON, PHILIP C. Born in Berkeley county, Va. (now W. Va.), Nov. 24, 1779. Was educated in Culpeper, Va., Dickinson College, Carlisle, Pa., and Princeton, where he



graduated, sharing first honors with the late Judge William Gaston, of North Carolina. United States district judge for the western district of Virginia, commissioned May 6, 1825. On account of his extreme diffidence, he resigned shortly afterwards. Died April 3, 1863.

PENNINGTON, WILLIAM SANDFORD. Born in Newark, N. J., 1757. Major of second New Jersey artillery in the Revolutionary War. Member of the legislature. Associate justice of the supreme court of New Jersey Feb. 28, 1804. United States district judge for the district of New Jersey 1815-1826. Commissioned June 19, 1815. Governor of New Jersey 1813-1815. Chancellor of New Jersey. Publisher of New Jersey Supreme Court Reports, (1803-1816.) Died in Newark, Sept. 26, 1826.

PENNYBACKER, ISAAC SAMUELS. Born in Shenandoah county, Va., Sept. 12, 1807. Educated at Washington College, Va. Studied law in the Winchester Law School. Practiced in Harrisburg, Va. Member of congress (Democrat) 1837. United States district judge for the western district of Virginia, commissioned April 23, 1839. Offered the place of attorney general by President Van Buren, but declined. United States senator 1845. Died in Washington, D. C., Jan. 12, 1847.

PETERS, RICHARD. Born at "Belmont," Philadelphia, June 22, 1744. Son of Judge William Peters. Was graduated at the College of Philadelphia (University of Pennsylvania) 1761. Admitted to the bar 1763. Register of admiralty 1771. Resigned on outbreak of the Revolution. Officer in the army. Member of the continental board of war June 13, 1776. Commissioner of war. Resigned 1781. Member of congress 1782-1783; of state assembly 1787; speaker 1788-1790. Speaker of state senate 1791. Declined comptrollership of the treasury on the formation of the federal government in 1789. United States district judge for the district of Pennsylvania, commissioned Jan. 12, 1792. Died at "Belmont," Philadelphia, August 22, 1828. Active in securing the passage of the act of secession by the British parliament for the Episcopal Church in America. Went to England in 1785 to secure the ordination of American bishops. Published Admiralty Decisions for the district of Pennsylvania, (1780-1807.) His estate "Belmont" is included in Fairmount park.

PHILIPS, JOHN F. Born in Thrall's Prairie, Boone county, Mo., Dec. 31, 1834. His early training was on the farm, and at the select schools of the neighborhood. He matriculated at the Missouri State University in 1851. Entered Center College, Ky., in 1853, graduating from that institution in 1855. Returning home, he at once entered upon the study of law, and entered the office of Gen. John Clarke, of Fayette, Mo., in 1856. Was admitted to the bar in 1857. Engaged in the practice of the law at Georgetown, Mo. Was assistant presidential elector upon the Bell and Everett ticket, in 1860, and in 1861 was nominated as a delegate from the senatorial district to the state convention called to consider the relations of the states to the federal Union, making his canvass as a pronounced Union man. He recruited the 7th cavalry, and was commissioned as colonel of

the regiment. Served in Missouri and Arkansas during the war, and was repeatedly recognized in field orders by division commanders for his gallantry and hard fighting. In 1864 he received special commendation of Maj. Gen. Pleasanton for gallant conduct, and was placed by Gen. Rosecrans in charge of the central district of Missouri, and was brevetted brigadier general by Gov. Willard P. Hall, but was not confirmed. At the close of the war he engaged in the practice of law at Sedalia, Mo., and soon after entered into partnership with Judge Russel Hicks. Hon. George G. Vest, afterwards United States senator from Missouri, was soon admitted to the firm, and Judge Hicks retired in 1869, so that for nearly 10 years thereafter the firm was Philips & Vest. Was a delegate to the presidential convention in Nov., 1868. Was Democratic candidate for congress in the same year, and was again nominated for congress in 1874 and 1876. Removed to Kansas City in the spring of 1882. Was supreme court commissioner in March, 1883, and was later appointed judge of the Kansas City court of appeals. United States district judge for the western district of Missouri, commissioned June 25, 1888. In 1877 he was a delegate from the United States to the Pan Presbyterian convention, at Edinburgh, Scotland. LL. D., Missouri State University, Center College, Ky., and Central College, Mo.

PICKERING, JOHN. Born in Newington, N. H., Sept. 22, 1737. Removed to Portsmouth. Graduated from Harvard 1761. Member of the provincial assembly before the Revolution. Member of the legislature during the Revolutionary period. Member of the New Hampshire constitutional convention 1781. Member of the conventions of 1791-1792, and of the convention of 1788, which ratified the federal constitution. Attorney general from Feb. 22, 1786, to June 5, 1787. Presidential elector 1788-1792. President of the state senate. Chief justice of the New Hampshire supreme court. United States district judge for the district of New Hampshire, commissioned Feb. 11, 1795. Removed in March, 1804, having become insane. Died in Portsmouth, N. H., April 11, 1805. LL. D., Dartmouth, 1792.

PITMAN, JOHN. Born in Providence, R. I., Feb. 23, 1785. Graduated from Rhode Island College, now Brown University, 1799, with degree of B. A. Admitted to the bar in

New York in 1806; in Kentucky in 1807. Removed to Kentucky, where he practiced until 1809, when he returned to Rhode Island. In 1812 he removed to Massachusetts, and, later, from there to New Hampshire, where he resided from 1816 to 1820, returning to his native city. United States district judge for the district of Rhode Island, commissioned Aug. 4, 1824. Died Nov. 17, 1864. United States district attorney for Rhode Island 1820-1824. President of the Rhode Island Society for the Encouragement of Domestic Industry 10 years. President of Providence Athenaeum 1839-1857. Trustee Brown University 1828-1834. Fellow 1834-1864.

POPE, NATHANIEL. Born in Louisville, Ky., Jan. 5, 1784. Was graduated at Transylvania University, 1806. Began practice at St. Genevieve, Mo. Removed to Vandalia, and later to Springfield, Ill. Secretary of Illinois territory 1809. Delegate to congress 1816-1818. Register of the land office at Edwardsville, Ill., 1818. United States district judge for the district of Illinois, commissioned March 3, 1819. Died at St. Louis in 1849. Was instrumental in fixing the present northern boundary of Illinois.

POTTER, HENRY. Born in Granville county, N. C., 1765. United States circuit judge for the fifth circuit Commissioned May 9, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. United States district judge for the districts of North Carolina, commissioned April 7, 1802. Trustee of the University of North Carolina 1799. One of the revisors of the state statutes, (Laws of the State of North Carolina 1821.) Published "The Duties of a Justice of the Peace." Died in Fayetteville, N. Y., Dec. 20, 1857.

PRENTISS, SAMUEL. Born in Stonington, Conn., March 31, 1782. Removed to Worcester, Mass.; thence to Northfield, Mass. Studied law in Northfield and in Brattleboro, Vt Admitted to the bar 1802. Began practice in Montpelier, Vt., 1803. Member of legislature 1824-1825. Chief justice of Vermont supreme court 1829. United States senator (Whig) 1831. Resigned April 11, 1842. United States district judge for the district of Vermont, commissioned April 3, 1842. Died in Montpelier, Jan. 15, 1857. LL. D., University of Vermont.

PUTNAM, WILLIAM LE BARON. Born in Bath, Me., May 26, 1835. Graduated at Bowdoin in 1855. Admitted to the bar in Bath, Me., 1858, and practiced at Portland. Mayor of Portland 1869. Twice nominated judge of the state supreme court, but declined. He was in Sept., 1887, appointed commissioner to settle the differences of the United States and Great Britain as to the rights of American fishermen in Canadian waters. LL. D., Bowdoin, 1884, and Brown, 1893. United States circuit judge for the first circuit, commissioned March 17, 1892.

RANDALL, ARCHIBALD. Born in Philadelphia, Pa., 1800. Admitted to the bar 1818. Judge of the court of common pleas at Philadelphia, 1834. United States district judge for the eastern district of Pennsylvania, commissioned March 8, 1842. His bank-

ruptcy decisions are in the "Pennsylvania Law Journal," 1842-1846. Died at Philadelphia, June 8, 1846.

RANDOLPH, PETER. Descendant of the Randolphs, of Roanoke. Born in Virginia about 1780. Was educated at William and Mary College. Removed to Mississippi in 1820, and settled near Woodville. United States district judge for the district of Mississippi, commissioned June 25, 1823. Died Jan. 30, 1832.

RECTOR, JOHN B. Born in Jackson county, Ala., November 24, 1837. Graduated from Yale in 1859. Removed to Texas. Was elected district attorney in Austin in 1866. Appointed state district judge, thirty-first judicial district, in, Feb., 1871. United States district judge for the northern district of Texas, commissioned March 30, 1892.

REED, JAMES H. Born Allegheny City, Pa., Sept. 10, 1853. Graduated from Western University in 1872. Commenced study of law with his uncle, Hon. David Reed, July 19, 1872. Admitted to bar, July 17, 1875. Formed partnership with C. P. Knox in 1881. United States district judge for the district of Pennsylvania, commissioned Feb. 20, 1891. Resigned Feb. 15, 1892. Resides at Shady Side, Pittsburg.

RICKS, AUGUSTUS J. Born in Stark county, Ohio, Feb. 10, 1843. Graduated from Massillon High School and Kenyon College. Enlisted as private in the 100th Ohio volunteer infantry in 1862. Later commissioned first lieutenant, and was specially recommended by Maj. Gen. J. D. Cox for a commission as captain and aid de camp. Removed to Knoxville, Tenn. Studied law with the late United States circuit judge, John Baxter, and entered into partnership with his preceptor. Was editor of the Knoxville Daily Chronicle, 1870, then the only Republican paper in the South below Louisville. Returned to Massillon in 1875, where he resumed the practice of law. Appointed clerk of the United States circuit court, March 20, 1878, and clerk of the United States district court, June 22, 1886, holding both positions until his appointment as United States district judge for the northern district of Ohio, commissioned July 2, 1889.

RINER, JOHN A. Born in Preble county, Ohio, 1850. Studied law at the University of Michigan, graduating in 1879. Removed to Wyoming. Was attorney for city of Cheyenne in 1881. Was United States district attorney

for the territory of Wyoming, 1884. Elected a member of the upper house, tenth legislative assembly of Wyoming territory, in 1886. Elected member of the constitutional convention in 1889. Elected member of the state senate, 1890, but resigned before the legislature convened, to accept appointment as United States district judge for the district of Wyoming, commissioned Sept. 23, 1890.

RINGO, DANIEL. Born in Kentucky about 1800. Removed to Arkansas in 1830. Was clerk of Clark county from 1825 to 1830. Elected chief justice of the supreme court in 1836, which position he held until 1844. United States district judge for the district of Arkansas, commissioned Nov. 5, 1849, holding this position until the commencement of the civil war. Died at Little Rock, Sept. 3, 1873.

RIVES, ALEXANDER. Born in Nelson county, Va., June 17, 1806. Educated at Hampden-Sidney, Harvard, and University of Virginia. Settled in Albemarle county. Member of legislature 1835-1861. Judge of the Virginia court of appeals 1866. Resigned 1867. United States district judge for the western district of Virginia, commissioned Feb. 6, 1871. Resigned Aug. 1, 1882.

ROBERTSON, THOMAS BOLLING. Born near Petersburg, Va., 1773. Was graduated at William and Mary in 1807. Studied law. Appointed secretary for Louisiana territory, and removed to New Orleans. Member of congress (Democrat) 1812-1818. Governor of Louisiana. United States district judge for the district of Louisiana, commissioned May 26, 1824. His "Events in Paris" described the last days of the first empire, of which he was an eye-witness. He died at White Sulphur Springs, Va., Nov. 5, 1828.

ROSS, ERSKINE MAYO. Born at Belpre, Culpeper Co., Va., June 30, 1845. Graduated Virginia Military Institute. Was admitted to the bar at Los Angeles, Cal., in 1869. Justice of the supreme court of California 1879-1886. First United States district judge for southern district of California, commissioned Jan. 13, 1887. Appointed United States circuit judge for ninth circuit, Feb. 22, 1895.

ROSSELL, WILLIAM. Born in New Jersey in 1761. Judge of the supreme court of New Jersey. United States district judge for the district of New Jersey, commissioned Nov. 10, 1826. Died at Mt. Holly, June 20, 1840.

RUTLEDGE, JOHN. Born in Charleston, S. C., 1739. Studied law at the Temple, England. Member of the stamp act congress in 1765; the continental congress 1774. President of South Carolina March 27, 1776. Resigned 1778. Governor 1779, and proposed that South Carolina be neutral during the rest of the war, when the British advanced on Charleston. After the capture of Charleston in 1780 he accompanied Green's army. Member of congress 1782-1784. In 1783 he was appointed minister plenipotentiary to Holland, but declined the office. Chancellor of South Carolina 1784. Member of federal constitutional convention in 1787. Offered the place of associate justice of the United States supreme court 1789, but declined, in order to become chief justice of South

Carolina. Chief justice of the United States supreme court, commissioned July 1, 1793, and presided in the August term; but in December the senate refused to confirm his appointment, his mind having become diseased. Died in Charleston, July 23, 1800.

SABIN, CHAUNCEY BREWER. Born in Oneonta, Otsego county, N. Y., Aug. 6, 1824. Liberally educated. Admitted to the bar in Albany, Jan., 1846, and practiced there. Removed to Houston, Tex., in December, 1847. A Unionist during the Civil War. Fled the state in 1863. Resumed practice in Houston 1865. State judge for the third judicial district 1867-1868. Removed to Galveston 1871. State district judge 1871-1872. City attorney 1872. Member of legislature 1873. United States district judge for the eastern district of Texas, commissioned April 5, 1884. Ceased to be district judge, March 30, 1890.

SABIN, GEORGE M. Born in Cuyahoga county, Ohio, Sept. 18, 1835. Was graduated at Western Reserve College, Ohio, in 1856. Removed to Wisconsin, and studied law. Admitted to the bar in 1858. Enlisted, and served throughout the Civil War. Removed to Nevada 1868. United States district judge for the district of Nevada, commissioned July 26, 1882. Ceased to be district judge, May 13, 1890.

SAGE, GEORGE R. Born at Erie, Pa., Aug. 24, 1828. Removed to Ohio 1835. Was graduated at Granville College, Ohio, in 1849, and at the Cincinnati Law School in 1852. Practiced in Cincinnati 1852-1858. Practiced at Lebanon, Ohio, 1858-1865. Prosecuting attorney there. Returned to Cincinnati 1865. United States district judge for the southern district of Ohio, commissioned March 20, 1883.

SANBORN, WALTER H. Born at Epsom, N. H., Oct. 19, 1845. Was graduated from Dartmouth at the head of his class, June, 1867. Studied law with Senator Wadleigh, at Milford, N. H. Removed to St. Paul, Minn., 1870. Admitted to the Minnesota bar in 1871. Practiced law with his uncle, Gen. John B. Sanborn, from 1871 until his appointment as United States circuit judge for the eighth circuit, commissioned March 17, 1892. He was a member of the city council of St. Paul from 1878-1880 and 1885 to 1892. Was eminent commander of Damascus Commandery, No. 1, of the Knights Templar of St. Paul, from 1885 to 1888, and grand commander of the Knights Templar of the state of Minnesota in 1889. Was president of the St. Paul Bar

Association in 1890. LL. D., Dartmouth, 1893.

SAWYER, LORENZO. Born in Le Roy, Jefferson county, N. Y., May 23, 1820. Removed to Pennsylvania; thence to Ohio. Educated at Western Reserve College. Admitted to the bar 1846. Removed to Illinois; to Wisconsin; thence to California in 1850. Worked in the mines. Practiced in Sacramento. Removed to San Francisco in 1853. City attorney 1854. Judge of the state district court 1862; of the state supreme court 1863. Chief justice 1868-1870. United States circuit judge for the ninth circuit, commissioned Jan. 10, 1870. LL. D., Hamilton, 1877. Trustee of Leland Stanford University. Died Sept. 7, 1891.

SEAMAN, WILLIAM H. Born in New Berlin, Wisconsin territory, Nov. 5, 1842. Educated in common schools, and served apprenticeship as printer. Served in the civil war 1st Wisconsin infantry. Studied law at Sheboygan, Wis. United States district judge of the eastern district of Wisconsin, commissioned April 3, 1893. Has been president of Wisconsin State Bar Association.

SETTLE, THOMAS. Son of Judge Thomas Settle of the supreme court of North Carolina. Born in Rockingham county, N. C., Jan. 23, 1831. Was graduated at the University of North Carolina in 1850. Admitted to the bar in 1854. Member of the legislature 1854-1859. Speaker 1859. Presidential elector (Democrat) 1856. Supported Douglass in 1860. Opposed secession. Captain in the Confederate army for the first year of the war. Solicitor for the fourth judicial circuit. Member of convention and speaker of the state senate (as a Republican) in 1865. Active in the reconstruction. Judge of the state supreme court 1868-1871. United States minister to Peru in 1871. Defeated for congress in 1872. President of the Republican national convention of 1872. Judge of the state supreme court 1873. Defeated for governor 1876. United States district judge for the northern district of Florida, commissioned Jan. 30, 1877. Died Dec. 1, 1888.

SEVERENS, HENRY F. Born at Rockingham, Vt., May 11, 1835. Fitted for college at Saxton's River Seminary, and graduated from Middlebury College in 1857. Admitted to the Vermont state bar in 1859. Removed to Michigan, and entered upon the practice of his profession in that state in 1860. United States district judge for the western district of Michigan, commissioned May 25, 1886.

SEWALL, DAVID. Born at York, Mass., (Me.) 1735. Was graduated at Harvard in 1755. A classmate of John Adams. Began practice at York 1759. Justice of the peace 1762. Register of probate 1766. Active in the Revolution. Member of the legislature and councilor. Judge of the Massachusetts superior court 1777. United States district judge for the district of Maine, commissioned Sept. 26, 1789. Resigned Jan., 1818. LL. D., Bowdoin, 1812. Died at York, Me., Oct. 22, 1825.

SEYMOUR, AUGUSTUS SHERILL. Born in Ithaca, N. Y., Nov. 30, 1836. Was graduated at Hamilton College in 1857, and from the Columbia Law School in 1858. Practiced in New York city. Removed to Newbern, N. C. Criminal judge there 1868.

Member of legislature 1868-1870. Member of the North Carolina constitutional convention of 1871. Member of legislature 1872-1874. Judge of state superior court 1874-1882. United States district judge for the eastern district of North Carolina, commissioned Feb. 21, 1882. Is the author of "Seymour's Digest"

SHEPLEY, GEORGE FOSTER. Son of Judge Ether Shepley, of the supreme court of Maine. Borne in Saco, Me., Jan. 1, 1819. Was graduated at Dartmouth in 1837. Studied law at Harvard. Began practice in Bangor, Me., in 1840. Removed to Portland 1844. United States district attorney for the district of Maine, 1848, 1853-1861. Member of the Democratic national convention in 1860. Colonel of Maine volunteers in 1861. Brigadier general 1862. Military governor of Louisiana 1862-1864. Commander of the military district of eastern Virginia 1864-1865. Military governor of Richmond when-occupied by the Union troops. Declined an appointment as associate justice of the supreme court of Maine. United States circuit judge for the first circuit, commissioned Dec. 22, 1869. Died in Portland, July 20, 1878. LL. D., Dartmouth, 1876. His decisions are contained in Jabez Holmes' Reports.

SHERBURNE, JOHN SAMUEL. Born in Portsmouth, N. H., in 1757. Was graduated from Dartmouth in 1776. Studied law at Harvard. Practiced in Portsmouth. Was an officer in the Revolutionary war. United States district attorney for the district of New Hampshire, Sept. 26, 1789. Resigned Dec. 1, 1793, upon his election to congress. Again appointed United States district attorney Jan. 26, 1802, resigning March 26, 1804, upon his appointment as United States district judge for the district of New Hampshire. Died in Portsmouth, Aug. 2, 1830. His name was Samuel Sherburne, Jr., but by act of legislature, Dec. 31, 1789, it was changed to John Samuel Sherburne.

SHERMAN, CHARLES TAYLOR. Born at Norwalk, Conn., Feb. 3, 1811. Brother of General W. T. Sherman and Senator John Sherman. Removed to Lancaster, Ohio, in infancy. Was graduated from Ohio University, at Athens, Ohio, in 1830. Studied law at Dayton and Mansfield, Ohio. Admitted to the bar in 1833. Practiced at Mansfield. Commander of a drilling camp at Mansfield during the Civil War. Member of commission



to adjudicate war claims at St. Louis, Mo. Government director of the Union Pacific Railroad. United States district judge for the northern district of Ohio, commissioned March 2, 1867. Resigned Nov. 28, 1873. Died at Cleveland, Ohio, Jan. 1, 1879.

SHIELDS, WILLIAM BAYARD. Native of Delaware. An early emigrant to Mississippi. He participated as attorney general in the arrest of Aaron Burr. Was a leading member of the legislature. United States district judge for the district of Mississippi, commissioned April 20, 1818. Ceased to be district judge in 1823.

SHIPMAN, NATHANIEL. Born in South-bury, Conn., Aug. 22, 1828. Removed to Norwich 1836; thence to Jewett City 1842. Was graduated from Yale in 1848. Admitted to the bar 1850. Removed to Hartford 1851. Member of legislature 1857. Governor Buckingham's secretary 1858-1862. United States district judge for the district of Connecticut, commissioned April 16, 1873. United States circuit judge for the second circuit, commissioned March 17, 1892. LL. D., Yale, 1886.

SHIPMAN, WILLIAM D. Born in Chester, Conn., Dec. 29, 1818. Educated at the common school. Was engaged in mechanical labor from age of 17 to 24. Afterwards taught school until 1850, during which time he studied law. Admitted to the bar in the latter year in Middlesex county, Conn., and settled in East Haddam, in that state. Elected judge of probate for the district of East Haddam in 1852. Member of the lower house of the legislature in 1853. Same year was appointed United States district attorney for the district of Connecticut, and held that office until March 12, 1860, when he was commissioned United States district judge for the same district Resigned May 1, 1873, and became the senior partner of the firm of Barlow, Larocque & MacFarland, of New York City. A. M. and LL. D., Trinity College, Hartford.

SHIRAS, Jr., GEORGE. Born in Pittsburg, Pa., Jan. 26, 1832. Educated at the Ohio University and at Yale, from which institution he was graduated in 1853. Was admitted to the Allegheny county bar in 1856. Practiced in Pittsburg. Was presidential elector in 1888. Associate justice of the United States supreme court, Oct 7, 1892. LL. D., Yale, 1883.

SHIRAS, OLIVER P. Born at Pittsburgh, Pa., Oct 22, 1833. Was graduated from the University of Ohio in 1853. Entered the scientific school of Yale University. Was graduated from Yale Law School in 1856. Removed to Dubuque, Iowa, 1856. Admitted to the bar there. Aid-de-camp and judge advocate in the frontier army 1862-1863. Resumed practice at Dubuque. The first United States district judge for the northern district of Iowa, commissioned Aug. 4, 1882. LL. D., Yale, 1886.

SIMONTON, CHARLES H. Born at Charleston, S. C., July 11, 1829. Educated at the high school in Charleston, and at South Carolina College, from which institution he was graduated in 1849. Was admitted to the bar in 1852. A member of the legislature from 1856 to 1860. Entered Confederate army in 1861. Was member of constitutional

convention of the state in 1865, and was elected to the legislature and made speaker of the house in the same year. Again elected to the legislature in 1877, and was chairman of the judiciary committee of the house until 1886. United States district judge for the district of South Carolina, commissioned Sept. 3, 1886. Appointed United States circuit judge for the fourth circuit, Dec. 19, 1893. LL. D., South Carolina College, and D. C. L., University of the South.

SITGREAVES, JOHN. Born in New Berne, N. C, about 1740. Studied law and practiced there. An officer in the Revolutionary War. Member of congress 1784-1785; of the legislature 1786-1789. United States district judge for the district of North Carolina, commissioned Dec. 20, 1790. Ceased to be district judge, Feb. 13, 1801. Died in Halifax, N. C, March 4, 1802.

SKINNER, ROGER. United States district judge for the northern district of New York, commissioned Nov. 14, 1819. Ceased to be district judge, Aug. 27, 1825.

SMALLEY, DAVID A. Born in Middlebury, Addison county, Vt, April 6, 1809. Received academic education. Admitted to the bar in Franklin county, in 1831, and practiced there. Removed to Burlington. Member of legislature 1842. Vice president of Democratic national convention at Baltimore, 1852. Collector of customs for Vermont 1853. Delegate to the Cincinnati convention of 1857. United States district judge for the district of Vermont, commissioned Feb. 3, 1857. Resigned March, 1877. Died March 10, 1877, at Burlington.

SMITH, CALEB BLOOD. Born in Boston, Mass., April 16, 1808. Removed to Ohio 1814. Educated at Cincinnati and Miami Colleges. Studied law in Cincinnati and Connersville, Ind. Admitted to the bar 1828. Practiced in Connersville and edited the Sentinel. Member of legislature 1833-1836. Speaker 1836. Member of congress (Whig) 1843-1849. Presidential elector 1840 and 1856. Mexican claims commissioner. Resumed practice in 1850 in Cincinnati. Removed to Indianapolis. Influential in procuring Lincoln's nomination in 1860. Secretary of the interior 1861. United States district judge for the district of Indiana, commissioned Dec. 22, 1862. Died in Indianapolis, Jan. 7, 1864.

SMITH, JEREMIAH. Born in Peterborough, N. H., Nov. 29, 1759. Enlisted in the Revolutionary army. Fought at Bennington under Stark. Was graduated at Rutgers in 1780. Admitted to the bar in Dover, N. H. Member of New Hampshire constitutional convention 1791-1792. Member of congress (Federalist) 1791-1797. United States district attorney for the district of New Hampshire 1798-1801. United States circuit judge for the first circuit, commissioned Feb. 20, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. Chief justice New Hampshire superior court of judicature 1802-1809. Governor of New Hampshire 1809. Presidential elector 1809. Trustee of Phillips Exeter Academy. Member of State Historical Society. LD. D., Dartmouth, 1804; Harvard, 1807. Chief justice New Hampshire supreme judicial court 1813-1816. Patron and friend of Daniel "Webster. Died in Dover, Sept 21, 1842.

SPEER, EMORY. Born at Culloden, Ga., Sept. 3, 1848. Was graduated at the University of Georgia in 1869. Served in the Confederate army. Began practice at Athens, Ga., 1869. Solicitor general for the western judicial circuit of the state 1873. Resigned in 1876. Member of congress 1879-1883. Trustee of the University of Georgia 1877-1885. Now dean law faculty Mercer University. United States district judge for the southern district of Georgia, commissioned Feb. 18, 1885. Author of work on "Removal of Causes."

SPRAGUE, PELEG. Born in Duxbury, Mass., April 27, 1793. Was graduated at Harvard in 1812. Studied in the Litchfield (Conn.) Law School. Admitted to the bar 1815. Practiced in Augusta, Me., and afterwards at Hallowell. Member of the Maine legislature 1820-1821; of congress (Whig) 1825-1829. United States senator 1829. Resigned Jan. 1, 1835, and practiced in Boston. Presidential elector (Whig) 1840. United States district judge for the district of Massachusetts, commissioned July 16, 1841. Retired March, 1865. LL. D., Harvard, 1847. Died in Boston, Oct 13, 1880. His "Decisions in Admiralty," etc., are edited by F. E. Parker.

STEPHENS, WILLIAM. Born at Bulie, near Savannah, Ga., in 1752. At the beginning of the Revolutionary war he was appointed the first attorney general of Georgia, and was colonel of the Chatham county militia. Has repeatedly filled the office of chief magistrate of the city of Savannah. Was judge of the superior court of Georgia for several years. United States district judge for the district of Georgia, commissioned Oct. 22, 1801. Died in the city of Savannah, Aug. 6, 1819. He was at one time president of the Union Society, and also held the office of grand master Mason for the state of Georgia.

STOKES, JOHN. Born in North Carolina. Brother of Gov. Montford Stokes, of North Carolina. Colonel in the Revolutionary army. Member of state legislature in 1786. United States district judge for the district of North Carolina, commissioned Aug. 3, 1790. Died at Fayetteville, N. C, in Oct, 1790, after holding his first court. Stokes county was named for him.

STORY, JOSEPH. Born in Marblehead, Mass., Sept 18, 1779. Was graduated at Harvard in 1798. Studied law under Samuel Sewall and Samuel Putnam. Began practice in Salem, Mass., 1801. Member of legislature 1805, and Republican leader in that body. Defended the embargo in 1808 as a temporary measure. Member of congress 1808, and secured the repeal of the embargo. Speaker of the Massachusetts house of representatives in 1811. Associate justice of the United States supreme court, commissioned Nov. 18, 1811, being then 32 years old. He had great influence upon the development of American admiralty, prize, and patent law, and, with Kent, of equity jurisprudence. His charges to the grand juries in 1819 were influential in stopping the slave trade in New England. Wrote the opinion in the Dartmouth College Case. Denounced the Missouri compromise. Member of Massachusetts constitutional convention in 1820. First "Dane Professor" of law at Harvard, 1829. Removed to Cambridge. A popular and able teacher. Declined the chief justiceship of Massachusetts in 1831. Presided over the United States supreme court in the interregnum between Marshall and Taney, and during Taney's illness in 1844. Marshall wished Story to succeed him as chief justice. Overseer of Harvard 1818. LL. D., Harvard, 1821; Brown, 1815; Dartmouth, 1824. A bank president in Salem for many years. Author of many legal works, among them "Bailments," "The Constitution," "Equity Jurisdiction," "Equity Pleading," "Agency," "Partnership." His works are of high authority in America, in England, and on the European continent His decisions are contained in the reports of Cranch, Wheaton, and Howard. Next to Marshall, the greatest judge of the formative period of our federal jurisprudence. Died in Cambridge, Sept. 10, 1845.

STORY, WILLIAM. Born in Brookfield, Wis., April, 1844. Was educated in his native city and at Salem, Mass. Graduated from the University of Michigan in 1864. Enlisted in the 39th Wisconsin volunteer infantry, and at the close of the war entered the law office of Carter, Pitkin & Davis, of Milwaukee. Removed to Fayetteville, Ark., in 1866. Appointed to the bench of the state circuit court in 1867, and again to the same position in 1868, on the adoption of a new state constitution. United States district judge for the western district of Arkansas, commissioned March 3,

1871. Resigned in 1874, removing to Colorado to engage in the practice of the law. In 1890 he was elected lieutenant governor of Colorado. Resides at Ouray. His father was a nephew of Hon. Joseph Story, for 24 years associate justice of the supreme court of the "United States.

**STRONG, WILLIAM.** Born in Somers, Tolland county, Conn., May 6, 1808. Educated at the Plainfield Academy, and was graduated at Yale in 1828. A teacher at Burlington, N. J., where he studied law under Garret D. Wall. Spent six months in the Yale Law School. Admitted to the bar in Pennsylvania in 1832. Settled in Reading. Member of congress (Democrat) 1847-1851. Chairman of committee on elections. Justice of the Pennsylvania supreme court 1857. His opinions are contained in volumes 30-60 Pennsylvania State Reports. Resigned 1868, and practiced in Philadelphia. Associate justice of the "United States supreme court, commissioned April 4, 1870. Assigned to the third circuit. Resigned Dec.14, 1880. Member of the electoral commission 1877. Prominent in the Presbyterian Church. President of the American Tract Society. Lectured in the University of Pennsylvania, and in the Columbian University, Washington, D. C. LL. D., Lafayette, 1867; Yale and Princeton, 1870.

**SULLIVAN, JOHN.** Born in Somersworth, part of Old Dover, N. H., Feb. 17, 1740. Of Irish parentage. Practiced law in Durham, N. H. Member of first continental congress in 1774. Member of first college of presidential electors in New Hampshire. Brigadier general in the Continental army 1775. Major general 1776. He was captured in the battle of Long Island, but was soon exchanged. In command in Rhode Island 1778, and in Iroquois county 1779. Resigned. Member of congress 1780-1781. Resumed practice in New Hampshire. Member of state constitutional convention 1781. Major general of the New Hampshire militia 1784-1786. Attorney general of state 1782-1786. Councillor 1785. Speaker of house 1785-1786. President of New Hampshire 1786, 1787, and 1789. Saved his state from anarchy at the time of an uprising similar to the rebellion of Shays in Massachusetts. Commissioned to settle disputes with Vermont President of convention, and active in securing New Hampshire's ratification of the federal constitution in 1788 United States district judge for the district of New Hampshire, commissioned Sept. 26, 1789. Died in Durham, N. H., Jan. 23, 1795, while holding office. LL. D., Harvard, 1780; Dartmouth, 1789.

**SWAN, HENRY H.** Born in Detroit, Mich., Oct. 2, 1840. Educated at the University of Michigan. Studied law in Stockton, Cal., and Detroit, Mich. Was admitted to the bar in Oct., 1867. Was assistant United States district attorney for the eastern district of Michigan from 1870 to 1877. United States district judge for the eastern district of Michigan, Jan. 21, 1891. Lecturer on admiralty law, University of Michigan.

**SWAYNE, CHARLES.** Born at Guyen-court, New Castle county, Del., Aug. 10, 1842. Educated at the public schools and higher academy. Taught in high school from

1864 to 1870. Was graduated from the law department of the University of Pennsylvania, June, 1871. Admitted to the Philadelphia bar in the same month. Admitted to the bar of the supreme court of Pennsylvania in 1873, and of the United States in 1876. Removed to Florida in March, 1885. Was a candidate on the Republican ticket for supreme judge in the state of Florida, and was defeated. United States district judge for the northern district of Florida, commissioned May 17, 1889.

SWAYNE, NOAH HAYNES. Born in Culpepper county, Va., Dec. 7, 1804. Educated in Waterford, Va. Studied law in Warrenton. Admitted to the bar 1823. Removed to Coshocton, Ohio. Prosecuting attorney 1826-1829. Member of legislature, (Jackson Democrat) United States district attorney for Ohio 1831-1841. Removed to Columbus 1831. Declined the place of presiding judge of common pleas in 1833. Member of a commission to restore the credit of the state, and of another to settle the Michigan boundary line. Joined the Republican party at its formation. Associate justice of the United States supreme court, commissioned Jan. 24, 1862. Resigned July 24, 1881. LL. D., Dartmouth and Marietta, 1863; Yale, 1865. Died in New York city, June 8, 1884.

SWING, PHILIP B. Born in Miami township, Clermont county, Ohio, Oct. 23, 1820. Was educated at the common schools of his county. Prosecuting attorney in 1847. United States district judge for the southern district of Ohio, commissioned March 30, 1871. Died at Batavia, Ohio, Oct 30, 1882.

TAFT, WILLIAM HOWARD. Born in Cincinnati, Ohio, Sept. 15, 1857. Was graduated from Yale in 1878. As second in his class, delivered the Latin oration. Was also class orator, and delivered his class oration. Studied law at Cincinnati Law School, and divided first prize on graduation. Was admitted to the bar in May, 1880. Was appointed assistant prosecuting attorney of Hamilton county, Ohio, in Jan., 1881. Resigned in March, 1882, to become United States collector of internal revenue for the first Ohio district. Resigned to resume the practice of the law in Jan., 1883. Was appointed assistant county solicitor of Hamilton county, Jan., 1885. Resigned to become judge of the superior court of Cincinnati in March, 1887, by appointment of Gov. Foraker. Was elected to the same bench for five years in April, 1888. Resigned in Feb., 1890, to become solicitor general of the United

States. United States circuit judge for the sixth circuit, commissioned March 17, 1892. LL. D., Yale, 1873.

TAIT, CHARLES. Born in Louisa county, Va., 1763. Removed to Georgia. Admitted to the bar. State judge of the western circuit of Georgia 1803–1809. United States senator 1809–1819. Removed to Alabama. The first United States district judge for the district of Alabama, commissioned May 13, 1820. United States district judge for the northern and southern districts, commissioned March 10, 1824. Resigned in 1826. Died in Wilcox county, Ala., Oct 7, 1835.

TALLMADGE, MATTHIAS BURNET. Born in Stanford, Dutchess county, N. y., March 1, 1774. Was graduated at Yale in 1795. Studied law with Ambrose Spencer, the chief justice of New York, at Hudson. Practiced in Herkimer. Member of the New York legislature. United States district judge for the district of New York, commissioned June 12, 1805. Removed to New York city. United States district judge for the northern district of New York, commissioned April 9, 1814. Married a daughter of Gov. George Clinton. Prominent in the Baptist Church. Died in Poughkeepsie, N. Y., Oct. 7, 1819.

TANEY, ROGER BROOKE. Born in Calvert county, Md., March 17, 1777. Son of a Roman Catholic planter. Was graduated at Dickinson in 1795. Read law at Annapolis with Judge Jeremiah Chase. Admitted to the bar in 1799. Member of legislature (Federalist) 1799, the youngest in that body. Removed to Frederick in 1801. Married a sister Of Francis Scott Key in 1806. Defended Gen. Wilkinson before a court-martial in 1811, and became unpopular thereby. A War Federalist, during the war of 1812. Member of the legislature in 1816. Increased his unpopularity by defending a Methodist minister charged with inciting insurrection among the blacks. Removed to Baltimore 1822, and became the leader of the bar there. Became a Jackson Democrat in 1824. Counsel for Maryland in the Lord Baltimore Case before the United States supreme court. Attorney general of Maryland 1827. Attorney general of the United States Dec. 27, 1831. When Duane refused to remove the government deposits from the United States bank he was removed, and Taney made secretary of the treasury in his place, (in September, 1833.) For this he was bitterly attacked, and the senate refused to confirm his nomination June 23, 1834. Nominated as associate justice of the United States supreme court in January, 1835, but the senate refused to confirm him. Nominated chief justice Dec. 28, 1835, and confirmed by a vote of 29 to 15; commissioned March 15, 1836. Assigned to the fourth circuit Sat on circuit in April, and presided over the full court in January, 1837, succeeding Chief Justice Marshall in the office. His accession to the bench was followed by a tendency to extend the rights of the states rather than those of the federal government, in contrast with the decisions of Marshall. He revised the latter's decision in *Briscoe v. Bank of Kentucky*, touching the right of a state to establish a state bank. Justice Story soon after resigned. Taney held in a dissenting opinion in the *Massachusetts and Rhode Island*

boundary dispute that the court had no right to settle questions of jurisdiction between states. Wrote the opinion in the Dred Scott Case. His decision in the case of Booth, a fugitive slave, overruling a decision of the Wisconsin supreme court, was declared "void and of no force" by the legislature of that state. He denied the jurisdiction of the court to compel by mandamus a governor of a state to deliver up a fugitive slave. In the Case of Merryman he denied the right of the president to suspend the writ of habeas corpus. Died in Washington, D. C, Oct 12; 1864. His opinions in the supreme court contained in Howard's and Black's United States Reports. Those delivered on circuit are reported by Campbell.

TAPPAN, BENJAMIN. Born in Northampton, Mass., May 25, 1773. Apprenticed to learn engraving. Studied law. Began practice in Steubenville, Ohio, in 1799. Member of legislature 1803. Served as aid in the war of 1812. Presiding judge of the fifth Ohio circuit United States district judge for the district of Ohio, commissioned Oct 12, 1833. Ceased to be district judge, Dec. 26, 1833. Presidential elector 1833. United States senator (Democrat) 1839-1845. Joined the Free-Soil party at its beginning. Died in Steubenville, April 12, 1857.

TAYLOR, GEORGE IC United States circuit judge for the fourth circuit, commissioned Feb. 20, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802.

THAYER, AMOS M. Born in Chautauqua county, N. Y., Oct 10, 1841. Was graduated from Hamilton College in 1862. Entered the army as second lieutenant, 112th New York volunteers, July, 1862. Commissioned first lieutenant United States signal corps in 1863. Studied law in St. Louis, Mo., and was admitted to the bar in March, 1868. Elected circuit judge of the eighth judicial circuit, state of Missouri, in Nov., 1876. Re-elected in Nov., 1882. United States district judge for the eastern district of Missouri, commissioned Feb. 26, 1887. United States circuit judge for the eighth circuit, commissioned Aug. 9, 1894. LL. D., Hamilton College, 1892.

THOMAS. ALFRED D. Born in Walworth county, Wis., Aug. 11, 1837. Read law with Judge Olauson H. Barnes at Delevan, Wis., and Butler & Cotterill, at Milwaukee. Educated



at Brown University, graduating in the class of 1861. Was married Oct, 1864, to Miss Fanny C. Barnes, daughter of Judge Barnes, territorial judge of Dakota. Was district attorney of Walworth county from 1872-1878. Removed to North Dakota in the latter year. United States district judge for the district of North Dakota, commissioned Feb. 25, 1890. Died Aug. 8, 1896.

THOMPSON, SMITH. Born in Stanford, Dutchess county, N. Y., Jan. 17, 1768. Was graduated at Princeton in 1788. Taught in Poughkeepsie, N. Y., and studied law there under Chancellor Kent. Admitted to the bar in 1792. Member of legislature 1800; of the state constitutional convention 1801. Declined the office of attorney for the middle district of New York 1801. Associate justice of state supreme court 1802-1814. Chief justice 1814-1818. Secretary of the navy 1818. Associate justice of the United States supreme court, commissioned Sept. 1, 1823. LL. D., Yale and Princeton, 1824; Harvard, 1835. Died in Poughkeepsie, N. Y., Dec. 18, 1843.

THRUSTON, BUCKNER. Born near Winchester, Va., in 1763. Son of Charles Mynn Thruston, a distinguished Revolutionary officer. Removed to Kentucky in early life. Received a classical education. Studied law, and was admitted to the bar, practicing in Frankfort. Was appointed United States judge for the territory of Orleans, which he declined on his election to the United States senate from Kentucky. He served in the senate from December 2, 1805, to July 1, 1809, when he resigned, on being appointed United States circuit judge for the District of Columbia, commissioned Dec. 14, 1809. Died in Washington, D. C., Aug. 30, 1845.

TILGHMAN, WILLIAM. Born in Talbot county, Md., Aug. 12, 1756. Studied law under Benjamin Chew. Admitted to the Maryland bar 1783. Member of legislature. Practiced in Philadelphia after 1793. Chief judge of the United States circuit court for the third circuit, commissioned March 3, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. President of the court of common pleas 1805. Chief justice of the Pennsylvania supreme court 1806. By order of the legislature, published the English statutes in force in Pennsylvania 1809. President of the American Philosophical Society 1824. Died in Philadelphia, April 30, 1832. LL. D., Harvard, 1814. A memoir of him is to be found in 15 Serg. & B. 437.

TODD, THOMAS. Born in King and Queen county, Va., Jan. 23, 1765. Was educated at Manchester, where he resided until 1782. Was a member of the Manchester troop of cavalry in 1781, during the invasion of Virginia by Arnold and Philips. Was a matriculate in 1782-1783 of Liberty Hall Academy, now Washington and Lee University, Va. Removed to Danville, Ky., to engage in the practice of the law. Was a tutor in 1783, studying law at night. He was a member of all the 10 conventions held by the people from 1784 to 1792. Was clerk of the federal court for the district of Kentucky for the same period. Was appointed lieutenant colonel commandant of Lincoln county, June,

1792. Appointed clerk of the court of appeals, serving until 1801, when he was appointed judge of the court of appeals, and chief justice in 1806. Associate justice of the supreme court of United States, commissioned March 3, 1807. Died at Frankfort, Ky., Feb. 7, 1826.

TOULMLN, HARRY T. Born in Mobile county, Ala., 1838. Educated at the common schools, and at the universities of Alabama and Virginia. Began the practice of the law in Mobile in 1860. Was presidential elector in 1868. Member of the state legislature in 1870 and 1872. Was judge of the state circuit court from 1874 to 1882. United States district judge for the southern district of Alabama, commissioned Jan. 13, 1887.

TOWNSEND, WILLIAM K. Born in New Haven, Conn. Was graduated at Yale in 18—, and at the Yale law school in 18—. United States district judge for the district of Connecticut, commissioned March 28, 1892. He holds the Edward J. Phelps professorship of law in Yale University.

TREAT, SAMUEL. A cousin of Judge Samuel Hubbel Treat Born in Portsmouth, N. H., Dec. 17, 1815." Was educated at the public schools of his native town, and at the age of 16 was employed as assistant teacher in the high school. Was graduated from Harvard in 1837. Commenced the study of the law in 1838 in the office of Jeremiah Mason and Charles B. Goodrich; also was engaged in teaching at the same time in the Weld school at Jamaica Plains, near Boston. Was elected to take charge of the Temple Hill Academy in the Genesee Valley, N. Y., and while there continued his legal studies under Gov. John Young. Resigned in November, 1840, and in 1841 removed to St. Louis. Was admitted to the bar, but devoted several years thereafter to editorial work. Spent the winter of 1848 in Cuba. Returning to St. Louis, he was appointed judge of the court of common pleas, Aug., 1849. Was elected to the same office in Aug., 1851, and held office until 1857. United States district judge for the eastern district of Missouri, commissioned March 3, 1857. Resigned March 5, 1887. Was member of the corporation of the Washington University of St. Louis. LL.D., Washington University, 1879.

TREAT, SAMUEL HUBBEL. A descendant of Robert Treat, the colonial governor of Connecticut Born in Plainville, Otsego

county, N. Y., June 21, 1811. Studied law and was admitted to the bar in Richfield. Walked to Springfield, Ill, in 1834, and began the practice of law there. Judge of state circuit court 1839-1841; of state supreme court 1841-1855. United States district judge for the southern district of Illinois, commissioned March 3, 1855. Retired Feb. 15, 1857. Died in Springfield, Ill., March 27, 1887. Prominent in the Episcopal Church. Compiler with W. B. Scates and R. S. Blackwell of Illinois Statutes.

TRIGG, CONNALLY F. Born in Abingdon, Va., March 8, 1810. Removed to Bristol, Tenn., and engaged in the practice of the law. United States district judge for the districts of Tennessee, commissioned July 17, 1862. Died in Bristol, Tenn., April 25, 1880.

TRIMBLE, ROBERT. Born in Berkeley county, Va., in 1771. His parents removed to Kentucky when he was three years old. He was self-educated. Was a school teacher for a time. Began practice in Paris, Ky., 1803. Member of legislature 1803. Judge of the Kentucky court of appeals 1808; chief justice 1810. United States district attorney for the district of Kentucky 1813. United States district judge for the district of Kentucky, commissioned Jan. 31, 1817. Associate justice of the United States supreme court, commissioned May 9, 1826. Died Aug. 25, 1828.

TROUPE, ROBERT. Born in New York city in 1757. Was graduated at Columbia in 1774. Studied law under John Jay. Aid in the Revolutionary army. Captured in the battle of Long Island, and confined on the prison-ship "Jersey." Secretary of the board of war 1778-1779. Completed his law studies with Judge William Paterson, of New Jersey. A Federalist in politics. United States district judge for the district of New York, commissioned Dec. 10, 1796. Resigned in April, 1798. Was a member of the state legislature. Published a letter in 1822 on the lake canal policy of New York; "Vindication of the Claim of Elkanah Watson," in 1821; "Remarks on Trinity Church Bill," in 1813. Died in New York city, Jan. 14, 1832.

TRUITT, WARREN. Born in Green county, Ill., July 4, 1846. Entered McKendree College at Lebanon, Ill., graduating in 1868, ranking high in mathematics and philosophy. Commenced the study of the law in the office of Judge Snider, of Belleville, Ill. Was admitted to the bar in 1870. Removed to Oregon in 1871, locating in Polk county. Was elected judge in 1874, and, after serving four years, declined a renomination. Was a member of the legislature in 1883. Was on the Republican state ticket in 1884, and was selected as electoral messenger to carry the presidential vote of Oregon to Washington City. Was appointed register of the land office at Lake View, Or., in 1885. Again appointed register of the land office at Lake View, in 1889. United States district judge for the territory of Alaska, commissioned Jan. 15, 1892. His successor was appointed Nov. 8, 1895. He is at present engaged in the practice of the law in San Francisco, Cal.

TUCKER, ST. GEORGE. Born in Port Royal, Bermuda, July 10, 1752. Removed to Virginia in 1771. Was graduated from William and Mary College in 1772. Studied

law in the office of George Wythe. Was admitted to the bar, April 4, 1774. Served in the Revolutionary army on the staff of Gen. Nelson. Was major of militia, Feb. 25, 1781. Was wounded at Guilford Court House. Was lieutenant colonel, Sept. 12, 1781. Member of the privy council of the state in 1781-1782. Member of the Annapolis convention of 1786-1788. Was judge of the general court 1787-1804. Was professor of law at William and Mary 1789-1804. President judge of the Virginia court of appeals 1804-1813. United States district judge for the district of Virginia, commissioned Jan. 19, 1813. Resigned June 30, 1825. Was author of "A Dissertation on Slavery; with a Proposal for a Gradual Abolition of it in the State of Virginia" (Philadelphia, 1796; New York, 1861); "Probationary Odes of Jonathan Pindar, Esq.." (Philadelphia, 1796); "How Far the Common Law of England is the Common Law of United States" "Commentaries on Blackstone," five volumes (Philadelphia, 1804); essays, poems, plays, etc. Died at Edgewood, near Warminster, Nelson county, Va., Nov. 10, 1827. LL.D., William and Mary, 1790.

TURNER, EZEKIEL B. Born at Putney, Vt, May 24, 1825. Was educated at a local academy. Removing to Michigan in 1843. Admitted to the bar, Jan. 14, 1850. Prosecuting attorney for St. Joseph county 1850. Removed to Texas 1853. District attorney for the western district of Texas 1866. Attorney general of Texas under the reconstruction acts. State judge for the thirty-second judicial district 1871-1876; sixteenth judicial district 1876-1880. United States district judge for the western district of Texas, commissioned Nov. 18, 1880. Died at Austin, June 2, 1888.

TYLER, JOHN. Born in James City, Va., Feb. 28, 1747. Was educated at William and Mary College. Studied law in the office of Robert Carter Nichols. Was judge of the state admiralty court in 1776, but resigned to accept a seat in the legislature 1778. Was speaker of the house of delegates during the Revolution. Was re-elected judge of the state admiralty court in 1786, and was also judge of the state supreme court. Was vice president of the Virginia convention in 1788. Was elected judge of the general court of Virginia in the latter year. Was elected governor of Virginia in 1808. United States district judge for the district of Virginia, commissioned Jan. 7, 1811. Died Jan. 6, 1813.

UNDERWOOD, JOHN CURTISS. Born in Litchfield, Herkimer county, N. Y., in 1808. Was graduated at Hamilton in 1832. Moved to Clark county, Va. Married a cousin of Gen. Stonewall Jackson. Member of the Republican national convention of 1856. He became unpopular in Virginia, and removed to New York in 1860. Refused consulship to Collao, Peru, 1861. Fifth auditor of the treasury 1861. United States district judge for the district of Virginia, commissioned March 27, 1863. Refused to admit Jefferson Davis to bail, June, 1866. Upheld the confiscation acts and the civil rights of negroes. Died in Washington, D. C., Dec. 7, 1873.

VAN NESS, WILLIAM PETER. Born in Ghent, N. Y., 1778. Was graduated at Columbia, 1797. Settled in New York city. Friend of Aaron Burr, and his second in the Burr-Hamilton duel, for which he was hated by the Federalists. United States district judge for the southern district of New York, commissioned May 27, 1812. Died in New York City, Nov. 7, 1826. Published "An Examination of the Charges against Aaron Burr," "Laws of New York, with Notes," (with the collaboration of John Woodworth,) and "Jackson's First Invasion of Florida."

WATTE, MORRISON REMICK. Son of Chief Justice Waite, of Connecticut, (1787-1869.) Born in Lyme, Conn., Nov. 29, 1816. Was graduated at Yale in the famous class of 1837, of which William M. Evarts, Benjamin Silliman, and Samuel J. Tilden were members. Studied law in his father's office. Completed his legal education in the office of Samuel M. Young, of Maumee City, Ohio, whose partner he became after his admission to the bar, in 1839. The firm removed to Toledo, Ohio, in 1850. He formed a partnership with his brother, Richard. Leader of the Ohio bar. Member of the legislature 1849. Counsel for the United States, with Caleb Cushing and William M. Evarts, before the Geneva arbitration commission, 1871-1872. (His argument was published.) Member and president of the Ohio constitutional convention of 1874, elected by both parties. Chief justice of the United States supreme court, commissioned April 1, 1874. Many great questions were before the court during his term, among them the war amendments, the civil rights act, the legal tender acts, the Virginia "readjustment" acts. He was assigned to the fourth circuit, including Virginia and the Carolinas, and was very popular with the bar in those states. LL. D., Yale, 1872; Kenyon, 1874; University of Ohio, 1879. Died in Washington, D. C., March 23, 1888.

WALES, LEONARD E. Born in Wilmington, Del., Nov. 26, 1823. Was graduated at Yale in 1845. Admitted to the bar in 1848. Practiced in Wilmington. Judge of the state superior court for New Castle county 1864. Resigned 1884. United States district judge for the district of Delaware, commissioned March 20, 1884.

WALKER, JONATHAN H. Born in Cumberland county, Pa., in 1756. Was educated at Dickinson College. Graduated from that institution in 1787. Studied law at Carlisle with Stephen Duncam, and in 1776 joined the colonial army under Gen. St. Clair, and

was sent to support Arnold in the expedition against Quebec. He also took part in the campaign against the Indians in western Pennsylvania in 1779. Was appointed president judge of the fourth judicial district of Pennsylvania, March 1, 1806. United States district judge for the western district of Pennsylvania, commissioned April 20, 1818. Died at Natchez, Miss., in Jan., 1824. His son Robert J. Walker was secretary of the treasury during the administration of President Polk.

WALLACE, WILLIAM JAMES. Born in Syracuse, N. Y., April 14, 1838. Educated by private tutors. Studied law at Hamilton College. Admitted to the bar in July, 1859. Mayor of Syracuse 1873-1874. United States district judge for the northern district of New York, commissioned April 7, 1874. United States circuit judge for the second circuit, commissioned April 6, 1882. LL. D., Hamilton, 1875; Syracuse University, 1882. Besides at Albany.

WARE, ASHUR. Born in Sherburne, Mass., Feb. 10, 1782. Was graduated at Harvard in 1804. Tutor there 1807-1811. Professor of Greek 1811-1815. Admitted to the bar in Boston 1816. Removed to Portland, Me., 1817. First secretary of the state of Maine 1820. Editor of the Portland Argus. United States district judge for the district of Maine, commissioned Feb. 15, 1822. Resigned May 31, 1866. Author of articles on admiralty in Bouvier's Law Dictionary. Died in Portland, Sept. 10, 1873. LL. D., Bowdoin, 1837.

WASHINGTON, BUSHROD. Nephew of George Washington. Born in Westmoreland county, Va., June 5, 1762. Was graduated at William and Mary, 1778. Studied law in Philadelphia with James Wilson. Served as a private in the Revolution. Member of the legislature 1787; of the Virginia convention to ratify the federal constitution 1788. Removed to Alexandria, and thence to Richmond. Associate justice of the United States supreme court, commissioned Sept. 29, 1798. Assigned to the third circuit Feb. 13, 1801. Died in Philadelphia, Nov. 26, 1829. He inherited Mount Vernon. First president of the Colonization Society. He published Reports of the court of appeals of Virginia and of the United States circuit court for the third circuit.

WATROUS, JOHN C. Born in Colchester, Conn., 1806. "Was graduated at Union, 1828. Practiced in Tennessee and Alabama. Removed to Texas 1842. Attorney general of the republic of Texas. When the state was admitted to the Union, he became United States district judge for the district of Texas, commissioned May 29, 1846. Assigned to the eastern district of Texas, Feb. 21, 1857. Resigned Jan., 1869. There was an unsuccessful attempt to impeach him. Removed to Baltimore, Md. Died there June 17, 1874.

WAYNE, JAMES MOORE. Born in Savannah, Ga., 1790. Was graduated at Princeton 1808. Admitted to the bar 1810. Practiced in Savannah. Member of legislature. Mayor of Savannah 1823. Judge of superior court 1824-1829. Member of congress 1829-1835, (Jackson Democrat.) Associate justice of the United States supreme court, commissioned Jan. 9, 1835. Assigned to the fifth circuit, March 10, 1863. Member of two Georgia constitutional conventions. Active in removing the Indians from Georgia. His admiralty decisions are of high authority. LL. D., Princeton, 1849. Died in Washington, D. C, July 5, 1867.

WEBB, NATHAN. Born in Portland, Me., May 7, 1825. Was graduated at Harvard in 1846. Admitted to the bar in 1849. Practiced in Portland. Member of legislature 1864-1865. County attorney of Cumberland county 1865 and 1868. United States district attorney for the district of Maine 1870. Declined reappointment in 1878. United States district judge for the district of Maine, commissioned Jan. 24, 1882.

WELKER, MARTIN. Born in Knox county, Ohio, April 25, 1819. Common-school education. Admitted to the bar in 1840. Clerk of common pleas for Holmes county 1846-1851. State judge of common pleas for the sixth district 1851. Served five years. Removed to Wooster, Wayne county, 1857. Lieutenant governor 1857. Judge advocate 1861 Assistant adjutant general 1862. Superintended the draft in Ohio. Member of congress 1865-1871. Member of the loyalist convention of 1866. United States district judge for the northern district of Ohio, commissioned Dec. 2, 1873. LL. D., Wooster University, Ohio, 1874. Professor of political science, constitutional and international law, in Wooster University. Resigned June 1, 1889.

WEDLS, ROBERT W. Born in Frederick county, Va., Nov. 29, 1795. Received his early education at Winchester. Removed to Ohio, where he commenced the study of the law in the office of Judge Vinton at Marietta, Ohio. While engaged in the study he removed to the territory of Missouri at the solicitation of Mr. Rector, then principal deputy surveyor for that territory, and engaged in 1866" in the public surveys of the territory, which was then inhabited mostly by Indians. He afterwards settled in St. Charles, capital of the territory, and engaged in the practice of law. Was elected a member of the first general assembly of the state, and took an active part in the adoption of the constitutional amendments then made relating principally to the judicial system. Subsequently became attorney general of the state, removing to Jefferson City with the removal of the state cap-

ital. United States district judge for the district of Missouri, commissioned June 27, 1836. Died at Bowling Green, Ky., Sept 22, 1864. He was the author of "Wells' Code (Mo.) Practice," 1849.

WHEELER, HOYT H. Born at Chesterfield, N. H., Aug. 30, 1833. Admitted to the bar in 1859. Commenced practice at Jamaica, Vt Member of legislature 1867-1869. Judge of the state supreme court 1869-1877. United States district judge for the district of Vermont, commissioned March 16, 1877. Removed to Brattleboro, 1884. LL. D., University of Vermont, 1886.

WHITE, ALBERT SMITH. Born In Blooming Grove, Orange county, N. Y., Oct. 24, 1803. Was graduated at Union in 1822, in the class of William H. Seward. Admitted to the bar in 1825. Moved to Indiana, and practiced in Lafayette. Member of congress (Whig) 1837-1839. United States senator 1839. Resumed practice 1845. Was active in railroad construction and management in Indiana. Member of congress (Republican) 1860. United States district judge for the district of Indiana, commissioned Jan. 18, 1864, but held the office only a few months, dying in Stookwell, Ind., Sept. 4, 1864.

WILKINS, ROSS. Born at Pittsburg, Pa., Feb. 19, 1799. Was educated at Dickinson College, graduating from that institution in 1818. Was prosecuting attorney at Pittsburg 1821-1823. Was territorial judge of the territory of Michigan 1832-1837. Was recorder at Detroit 1837. United States district judge for the district of Michigan, commissioned Jan. 26, 1837. Resigned Feb. 18, 1870. Died at Detroit, May 17, 1872.

WILKINS, WILLIAM. Born in Carlisle, Pa., December, 1779. Was in Dickinson College for a little time. Studied law at Carlisle. Admitted to the bar at Pittsburgh, Pa., Dec. 28, 1801, and practiced there. Member of the city common council 1816-1819; of the legislature 1820. President judge of the fifth judicial district of the state Dec. 18, 1820. United States district judge for the western district of Pennsylvania, commissioned May 12, 1824. Ceased to be district judge in March, 1831. United States senator (Jackson Democrat) 1831. Pennsylvania gave her electoral vote to him for vice president in 1833. Minister to Russia 1834. Member of congress 1842-1844. Secretary of war 1844-1845.



Member of legislature 1855. Died in Homewood, Allegheny county, Pa., June 23, 1865.

WILLIAMS, ARCHIBALD. Born in Montgomery county, Ky., June 10, 1801. At an early age he supported himself, first by manual labor, and afterwards by teaching school, devoting all his leisure to his own cultivation and improvement. He studied law. Was admitted to the bar in Tennessee 1828. Removed to Quincy, Ill., in 1829. He soon became a member of the state senate, and was ranked among the ablest men of the state, and was twice elected to the lower house. Was also a member of the convention of 1847. Was United States attorney for Illinois in 1849. Soon after the inauguration of President Lincoln, March, 1861, he was tendered the appointment to the supreme bench of the United States, which he declined. United States district judge of the district of Kansas, commissioned March 12, 1861. Died at Quincy, Ill., Sept. 21, 1863.

WILLIAMS, JOHN A. Born at Remsen, Oneida county, N. Y., May 1, 1835. Was educated at Lowville Academy, Lewis county, N. Y. Clerk of courts of Waukesha county, Wis., 1856-1861. Entered the Union army during the war as captain, and was discharged as major. Settled at Pine Bluff, Ark. Was a member of the Arkansas constitutional convention of 1874. Was judge of the state circuit court for 11 years. Resigned to engage in the practice of law at Pine Bluff. United States district judge of the eastern district of Arkansas, commissioned Sept. 25, 1890.

WILLSON, HIRAM V. Born in Madison county, N. Y., April, 1808. Was graduated from Hamilton College 1832. Studied law with Hon. Jared Willson, Canandaigua, N. Y., and in the office of Francis S. Key, Washington, D. C. Removed to Cleveland, Ohio, in 1833, and became partner of Hon. Henry B. Payne, and later with Hon. Edward Wade and Beuben Hitchcock. Was an unsuccessful candidate on the Democratic ticket 1832. United States district judge for the northern district of Ohio, commissioned Feb. 20, 1855. Died Nov. 11, 1866, at Cleveland, Ohio.

WILSON, JAMES. Born near St. Andrews, Scotland, Sept 14, 1742. Educated at St Andrews, Glasgow, and Edinburgh Universities. Came to New York in 1763. Removed to Philadelphia in 1766. Tutor in the City College, (University of Pennsylvania.) Studied law with John Dickinson. Admitted to the bar. Began practice in Reading. Removed to Carlisle. Member of the provincial convention and of congress 1775. Hesitated about declaring independence, but signed the Declaration. Commissioner of Indian affairs for the middle department 1775. One of the committee to hear appeals in admiralty cases. Colonel in the campaign of 1776. Practiced in Annapolis a year, but returned to Philadelphia. Advocate general for France in the United States 1779. Director of the Bank of North America 1781. Unpopular for his conservative views, and for acting as counsel for Tories. Once mobbed, and left the city for a time. Brigadier general of militia 1782. Counsel for Pennsylvania before the court of arbitration in the Connecticut-Pennsylvania dispute 1782. Member of congress 1775-1778, 1782-1783, and 1785-1789. Member of

the federal constitutional convention in 1787, on committee on details, and had great influence in forming the constitution, and in securing its ratification by Pennsylvania. Leader of the Federalists in the state. Member of state constitutional convention 1789-1790, and prepared the form of the new Pennsylvania constitution. Associate justice of the United States supreme court, commissioned Sept. 29, 1789. Died in Edenton, N. C, Aug. 28, 1798. Professor of law in Philadelphia College 1790. LL. D., Philadelphia College, 1790. Published commentaries on the United States constitution.

WINCH, JOEL C. C. Born in Vermont Enlisted in the United States army, and at the close of the war engaged in the practice of law at Houston, Tex. Was a prominent member of the Republican party in his state. Appointed district attorney for the counties of Harris and Galveston in 1869. United States district judge for the eastern district of Texas, commissioned Oct. 4, 1870, his term of office expiring March 4, 1871, by reason of the failure of the senate to confirm his appointment. Died at Houston, Tex., about 1877.

WINCHESTER, JAMES. Born in Maryland 1756. United States district judge for the district of Maryland, commissioned Oct. 31, 1799. Ceased to be district judge in March, 1808. Removed to Tennessee. Brigadier general in the war of 1812. Defeated and surrendered at the River Raisin in January, 1813. Confined for a year in Quebec. Served at Mobile under Gen. Jackson. Resigned from the army in March, 1815. Lived in retirement in Tennessee. Died July 27, 1826.

WITHBY, SOLOMON L. Born at St. Albans, Vt, April 21, 1820. Removed to Ohio 1835, thence to Grand Rapids, Mich., 1838. Began to study law 1839. Admitted to the bar in 1844. Judge of probate 1848. Member of legislature 1860. United States district judge for the western district of Michigan, commissioned March 11, 1863. Declined circuit judgeship for the sixth circuit December, 1809. Bank president in Grand Rapids. Died April 25, 1886.

WOLCOTT, OLIVER. Son of Oliver Wolcott, the governor of Connecticut, and signer of the Declaration of Independence. Born in Litchfield, Conn., Jan. 11, 1760. Was graduated

at Yale In 1778. Served as aid and quarter master in the Revolution. Studied law in Litchfield. Admitted to the bar in 1781. Removed to Hartford. Member of the state "committoe of the pay table." Joint commissioner with Oliver Ellsworth to adjust the claims of Connecticut and the United States. Comptroller of state accounts 1788. Auditor of the national treasury 1789. Comptroller 1791. Declined presidency of United States Bank in 1791. Secretary of the treasury (following Hamilton) 1795. Disagreed with President Adams, and resigned Nov. 8, 1800. His enemies accused him of burning the treasury building in Washington to cover peculation. Nominated United States circuit judge for the second circuit, and unanimously confirmed; commissioned Feb. 20, 1801. The act under which the appointment was made was repealed, to take effect July 1, 1802. Merchant and banker in New York. Democratic candidate for governor of Connecticut 1815. Elected 1817. Re-elected for 10 years. Member state constitutional convention 1818. Afterwards resided In New York city, where he died June 1, 1833.

WOODBURY, LEVI. Born in Francestown, N. H., Dec. 22, 1789. Was graduated with the highest honors at Dartmouth in 1809. Studied at the Litchfield, Conn., Law School. Admitted to the har 1812. Practiced in Francestown. Clerk of the state senate 1816. Judge of the state supreme court 1817. Removed to Portsmouth 1819. Governor of New, Hampshire 1823-1824. Speaker of the state house of representatives 1825. United States senator (Democrat) 1825-1831. Secretary of the navy 1831-1834, and of the treasury 1834-1841. Refused the chief justiceship of the New Hampshire supreme court. United States senator 1841-1845. Voted to annex Texas 1844. Declined the English mission 1845. Associate justice of the United States supreme court to succeed Justice Story, commissioned Sept. 20, 1845. LL. D., Dartmouth and Wesleyan, (Conn.) Died in Portsmouth, Sept, 4, 1851.

WOODRUFF, LEWIS B. Born in Litchfield, Conn., June 19, 1809. Was graduated from Yale with special honors in 1830, and from Litchfield Law School In 1832. Was admitted to the bar in Connecticut, in the autumn of that year, removing soon afterwards to New York city, where he entered the office of Hon. Willis Hall. Was judge of court of common pleas, Jan., 1850. Was judge of superior court 1856. Resumed practice in 1861. Appointed judge of the court of appeals in Jan., 1868. United States circuit judge for the second circuit, commissioned Dec. 22, 1869. Died in Litchfield, Sept. 10, 1875.

WOODS, WILLIAM ALLAN. Born near Farmington, Marshall county, Tenn., May 16, 1837. Removed to Davis county, Iowa, in 1847. Was graduated from Wabash College in 1859. Tutor there 1859-1860. Teacher in Marion, Ind., and studied law there 1860. Admitted Dec., 1861. Commenced practice in Goshen, Ind., March 17, 1862. Member of legislature 1867. State judge for the thirty-fourth judicial circuit 1873-1881. Judge of the state supreme court 1881. Chief justice. United States district judge for the district

of Indiana, commissioned May 2, 1883. Removed to Indianapolis. Circuit judge for the seventh circuit under the judiciary act of March 3, 1891, commissioned March 17, 1892.

WOODS, WILLIAM BUBNHAM. Born In Newark, Licking county, Ohio, Aug. 3, 1824. Educated in part at Western Reserve College. Was graduated at Yale in 1845. Studied law in Newark, Ohio, and practiced there. Mayor 1856-1857. Member of legislature 1857-1869. Speaker 1858. Served in the Civil War. Brigadier general of volunteers. Mustered out May 5, 1866. Cotton planter and lawyer in Alabama. Active in the reconstruction. Chancellor of the state 1868. United States circuit judge for the fifth circuit, commissioned Dec 22, 1869. Associate justice of the United States supreme court, commissioned Dec. 23, 1880. Died in Washington, D. C, May 14, 1887. Compiler and preparer of Woods' Circuit Court Reports.

WOOLSON, JOHN SLMSON. Born in Ton-awanda, N. Y., Dec. 6, 1840. Removed to Mt. Pleasant, Iowa, in June, 1856. Graduated from Iowa Wesleyan University in June, 1860. Was appointed assistant paymaster, United States navy, March, 1862. Resigned in Dec, 1865, to pursue the study of law. Completed preparatory law studies with his father at Mt. Pleasant, and was admitted to practice, Sept., 1866. Was a member of Iowa state senate from 1876 to 1882 and 1886 to 1891. Was chairman of its judiciary committee 1880, 1888, and 1890. United States district judge for the southern district of Iowa, commissioned Aug. 17, 1891.

<sup>1</sup> 2 Brown, Civ. & Adm. Law, 40.

<sup>2</sup> In the copy of the Roll d'Oleron, published by Cleirae, in yhe original French, the words are, "procuration ou mandement special."

<sup>3</sup> "Pour less dépens." in Cleirae's copy.—E.

<sup>4</sup> "Ou la somme qu'elle sera prisée." Cleirae—E.

<sup>5</sup> "Le maître est tenu de leur bailler salaive raisonable pour venir en leurs terres." Cleira.

<sup>6</sup> "Ils doivent être guéris & pansés sur le coût de ladite nef." Cleirac, 15.—E.

<sup>7</sup> "Et s'il guerit il doit avoir son loyer tout comptant, en rabattant les frais, si le maitre lui en a fait, et s'il meurt, sa femme et ses prochains le doivent avoir pour lui. Voyez letit. 6 de l'Ordonnance de 1681. Au surpuls les malades sont mis a l'hôpital, & traité aux deépens de navir tant que dure le voyage." Cleirac, 17.—E.

<sup>8</sup> "Et pour recouvrer le dommage, les mariniers doivent avoir un tonneau franc." Cleirac, p. 18—E.

<sup>9</sup> "Ains doit avoir son fret, comme si les ton-neaux fussent péris." Cleirac, 24.

<sup>10</sup> The following important passage has been omitted in the translation of this article: “Et si doit le maitre payer selon quil doit prendre du guindage, et doit le salaire du guindage Gtre mis a recouvrer le dommage, et le rest ou surplus doit gtre reparti entr’eux.” Cleirac, p. 26.

In France the owners of ships receiving freight, are not obliged to pay the expenses of loading or unloading, but they form a separate charge against the owners of the cargo. The passage above quoted authorizes a deduction from this charge, of the value of any article lost or injured from the negligence of the master to furnish proper cordage, &c. If this charge is not sufficient to compensate for the loss, the master and mariners are to make up the difference.—E.

<sup>11</sup> “Le dommage du coup doit 6tre prise et parti moitiG des deux nefes.” Cleirac, 33.—E.

<sup>12</sup> “Parquoi les mariniens se puissent d6fendre et s’aider a la mer.” Cleirac, p. 30. This is omitted in the translation of the XVIth article—E.

<sup>13</sup> The right of the mariners to a part of the compensation allowed for the delay of the ship, could only arise, when they received a part of the freight instead of wages.—E.

<sup>1</sup> Laws of Oleron, arts. 12, 13, 20.

<sup>2</sup> Laws of Oleron, art. 5.

<sup>3</sup> By deniers here are understood, those of which twenty-four make an ounce of silver. The double deniers are now called carolus’s or grand blancs, by the French and other nations.

<sup>4</sup> These duties are never fixed on account of the dearness of provisions, and the value of money, which changes and increases daily. The rate of <sup>\*</sup>guindage or reguindage, is commonly in France five sols a last. Which is two sols six deniers tournois a tun.

<sup>5</sup> Ord. Louis XIV. Mariners and Ships, tit. 1, art. 14.

<sup>6</sup> The words of this article are, “de le fretter ou sous-louer a d’autres pour le meme temps, et pour mSme voyage”: which we think we have rendered right, notwithstanding the difficulty there seems to be in the sense, or the equity of this law.

<sup>7</sup> Laws of Oleron, art. 9.

<sup>8</sup> See art. 10; and Laws of Oleron, art. 1.

<sup>9</sup> Laws of Oleron, art. 2.

<sup>10</sup> Laws of Oleron, art. 3.

<sup>11</sup> Laws of Oleron, art 5.

<sup>12</sup> Laws of Oleron, art. 6.

<sup>13</sup> Laws of Oleron, art. 7.

<sup>14</sup> Laws of Oleron, art. 8.

<sup>15</sup> Id.

<sup>16</sup> Laws of Oleron, art. 10.

<sup>17</sup> Laws of Oleron, art. 11.

<sup>18</sup> Per dignitatem injuriam preferentis, crescit culpa facientis. Salvianus lib. sexto, de gubernatione Dei. Lose his hand. This was a common punishment among the Scythians and the people of the north. Lucianus de Toxari. And also among those in the east. Harmonopolus de Poenis.

<sup>19</sup> Laws of Oleron, art. 6.

<sup>20</sup> Laws of Oleron, art. 13.

<sup>21</sup> Laws of Oleron, arts. 14, 15.

<sup>22</sup> Laws of Oleron, art. 17.

<sup>23</sup> Laws of Oleron, art. 16.

<sup>24</sup> Laws of Oleron, art. 18.

<sup>25</sup> Laws of Oleron, art. 19.

<sup>26</sup> Laws of Oleron, arts. 5, 6, 20.

<sup>27</sup> Laws of Oleron, art. 21.

<sup>28</sup> Laws of Oleron, art. 22.

<sup>29</sup> Laws of Oleron, art. 4.

<sup>30</sup> Laws of Oleron, art. 8.

<sup>31</sup> Laws of Oleron, art. 8.

<sup>32</sup> Laws of Oleron, art. 8.

<sup>33</sup> Laws of Oleron, art. 22.

<sup>34</sup> Laws of Oleron, arts. 23, 24.

<sup>35</sup> Laws of Oleron, art. 22.

<sup>36</sup> Laws of Oleron, art. 10.

<sup>37</sup> Laws of Oleron, art. 10.

<sup>38</sup> Laws of Oleron, art. 14.

<sup>39</sup> Laws of Oleron, art. 21.

<sup>40</sup> Laws of Oleron, art. 5.

<sup>1</sup> Robertson's History of Charles V.

<sup>2</sup> In the stile of the Hanse Towns, the owners of ships are called burghers; because none but the burghers of those cities in Germany, were permitted to build ships. The inconvenience provided against by this article is to save the materials of building, that none might undertake what they could not go through with, and thereby the materials be lost: for if he who begins to build a ship, is not very well able to perfect it, and has not the approbation of his joint owners or partners, such is often the end of too rash beginnings of this kind.

<sup>3</sup> It is the custom in the Levant, if during the building of a ship, any one of the owners die, his heirs are not obliged to continue the partnership; but the master undertaker is bound to look out for another owner in the room of him that is dead; and this new owner must pay the heirs of the deceased what the latter advanced on this account

<sup>4</sup> Laws of Oleron, art. 28.

<sup>5</sup> Laws of Oleron, art. 5; Laws of Wisbuy, art. 17.

<sup>6</sup> Laws of Oleron, arts. 12, 13.

<sup>7</sup> Laws of Oleron, art. 6; Laws of Wisbuy, art. 18.

<sup>8</sup> Laws of Oleron, art. 20.

<sup>9</sup> Laws of Oleron, art. 18.

<sup>10</sup> Laws of Oleron. art. 3.

<sup>11</sup> Laws of Oleron, art. 7.

<sup>12</sup> The Spaniards are the most unkind, and indeed unjust, to their sick mariners of any people: for they neither pay them any wages, nor maintain them, unless they pay for others to serve in their stead: and what is still worse, if during their sickness any accident or damage happens to the ship or goods, those mariners that were ill, are obliged to make satisfaction, their sickness being no plea for them, according to the *Laberinto de Comercio*, libro tertio, cap. "Navigantis," numero 18.

<sup>13</sup> Laws of Oleron, art. 13.

<sup>14</sup> This is what is called "portage" in France, where 12 barrels make a last, and one last 2 tons.

<sup>15</sup> Laws of Oleron, art 45.

<sup>16</sup> Laws of Oleron, art 27; Laws of Wisbuy, art 45.

<sup>1</sup> In France those who command vessels of war, or merchant ships destined on long voyages, are called “captains”; masters or patrons are those who command vessels employed in the coasting trade.

<sup>2</sup> A professor of hydrography is appointed to teach navigation and the sciences immediately connected with it, in all the considerable sea ports in France. His school is open to every one, and formerly each hospital sent two or three boys, annually, to be instructed in the sciences taught by him. Book 1, tit. 8.

<sup>3</sup> Laws of the Hanse Towns, art. 15.

<sup>4</sup> Laws of the Hanse Towns, art. 48.

<sup>5</sup> Laws of Oleron, art. 2; Laws of Wisbuy, art. 14.

<sup>6</sup> Laws of the Hanse Towns, arts. 3, 4.

<sup>7</sup> Laws of the Hanse Towns, arts. 11, 59.

<sup>8</sup> Laws of Wisbuy, art. 45; Laws of the Hanse Towns, art. 60.

<sup>9</sup> Laws of Oleron, art. 15.

<sup>10</sup> Laws of the Hanse Towns, art. 30.

<sup>11</sup> Laws of Wisbuy, art. 53.

<sup>12</sup> Laws of the Hanse Towns, art. 9.

<sup>13</sup> Laws of the Hanse Towns, art. 9.

<sup>14</sup> Laws of the Hanse Towns, art. 10.

<sup>15</sup> Un matelot est un homme de mer qui a acquis une experience suffisante au fait la manoeuvre d'un vaisseau. Valin, Com. tom. 1, p. 509.

<sup>16</sup> Laws of the Hanse Towns, art 18.

<sup>17</sup> Laws of Wisbuy, art. 63; Laws of the Hanse Towns, art. 24.

<sup>18</sup> Laws of Wisbuy, art 1; Laws of the Hanse Towns, art. 43.

<sup>19</sup> Laws of Oleron, art. 5; Laws of Wisbuy, art 17.

<sup>20</sup> Laws of the Hanse Towns, art. 9.

<sup>21</sup> Laws of Wisbuy, art. 24; Laws of Oleron, art. 12.

<sup>22</sup> Laws of the Hanse Towns, art 25; Id. art. 37.

<sup>23</sup> The better to oblige owners of ships to be diligent and careful in providing themselves with honest masters, it is by this article declared, that they shall be answerable for the behaviour of the masters they put in their ships, for any sum not exceeding the value of their ships, and of their freight. See Valin, Com. tom. 1, p. 568.



<sup>24</sup> Laws of the Hanse Towns, art. 14.

<sup>25</sup> See Valin, Com. tom. 1, p. 575.

<sup>26</sup> Valin, Com. tom. 1, p. 584. See, also, the case of Willings v. Blight Case No. 17,765.

<sup>27</sup> The word which I here render “redemption,” is in the original “retrait lignager,” and implies a power inherent in an heir to revoke some grant, or redeem something mortgaged by his predecessors; to which sort of redemption ships are declared by this law not to be subject.

<sup>28</sup> The design of making ships sold privately, liable for the debts of the last owner, until they have made a voyage at the risk, and under the name of the new acquirer, is only to prevent the sham sales of ships frequently made only to defraud the creditors of the seller; which certainly is a very just and commendable constitution.

<sup>29</sup> The injunction in the last article upon the officers of the admiralty, to take a yearly account of the shipping belonging to the places of their residence, and others within the district of their courts, in order to send it to the proper secretary of state, is a very convincing proof of the regular and excellent methods observed by the French court for the improvement of navigation; which if (by the account brought in once a year) they find to decay in any place of the kingdom, diligent enquiry is made into the cause of this fact and all manner of impediments by which the prosperity of their shipping has been obstructed, are carefully removed. Nor is this the only advantage attending their diligence and exactness in such matters; for, by those yearly lists, the French king knows, within the number of 100 men or less, how many mariners and seamen, foreigners as well as natives, there are within the extent of his dominions; and he likewise knows what number are abroad in long voyages, when they may reasonably be expected back again, and where they are to arrive, and consequently when and where they may be serviceable to him.

<sup>30</sup> Laws of the Hanse Towns, art. 58.

<sup>31</sup> By portage is here meant the privilege generally allowed the seamen in France, to carry a venture for their own account.

<sup>32</sup> The first part of this article, has relation only to contracts with mariners for the voyage.

<sup>33</sup> Laws of Oleron, art 19; Laws of Wisbuy, art. 2.

<sup>34</sup> Laws of Oleron, art. 3; Laws of the Hanse Towns, art. 24.

<sup>35</sup> Laws of the Hanse Towns, arts. 41, 42; Laws of Wisbuy, art. 3.

<sup>36</sup> Laws of Wisbuy, arts. 18, 19; Laws of the Hanse Towns, arts. 39, 45; Laws of Oleron, arts. 1, 6, 7; Valin, Com. tom. 1, p. 721.

<sup>37</sup> “Treated” and “cured” are varied translations of the word “panse” in the original, and should in both places be “cured,” which is the true meaning of “panse.”

<sup>38</sup> Laws of Wisbuy, art. 18; Laws of the Hanse Towns, art. 39.

<sup>39</sup> Laws of Oleron, art. 7; Laws of Wisbuy, art. 19; Laws of the Hanse Towns, art. 45.

<sup>40</sup> Cleirac, p. 34.

<sup>41</sup> Valin, Com. torn. 1, p. 749.

<sup>42</sup> Valin, Com. torn. 2, p. 1.

<sup>43</sup> Laws of Wisbuy, art. 45.

<sup>44</sup> Laws of the Hanse Towns, art. 58.

<sup>45</sup> Laws of the Hanse Towns, arts. 11, 5940 La Guidon de la Mer, c. 19, arts. 2, 3.

<sup>46</sup> La Guifon de la Mer, c. 19, arts. 2, 3.

<sup>47</sup> Cleirac, p. 381.

<sup>48</sup> See Valin, Com. tom. 2, p. 20.

<sup>49</sup> See ante, p. 1210.

<sup>50</sup> The French, in making computations, reckon so much per livre, as we do per cent

<sup>51</sup> By those are meant bills of lading, and other necessary certificates, papers and writings.

<sup>52</sup> Valin, Com. tom. 2, p. 158.

<sup>53</sup> Laws of Wisbuy, art. 12.

<sup>54</sup> Laws of Wisbuy, arts. 44, 56, 59, 60.

<sup>55</sup> Laws of Oleron, art. 14; Laws of Wisbuy, arts. 26, 50, 67, 70.

<sup>56</sup> Laws of Wisbuy, arts. 28, 51; Laws of Oleron, art. 15; Valin, Com. tom. 1, p. 188.

<sup>57</sup> Laws of Oleron, arts. 8, 9; Laws of Wisbuy, arts. 20, 21, 38.

<sup>58</sup> Laws of Oleron, art. 8; Laws of Wisbuy, art. 39.

<sup>59</sup> By the eighth article of the Laws of Oleron. The master may contribute for his ship or for his freight, as he pleases.

<sup>60</sup> Laws of Oleron, art. 8; Laws of Wisbuy, art. 43.

<sup>61</sup> Laws of Oleron, art. 9.

<sup>1</sup> [See *Shelden v. Custis*, Case No. 12,736; *U. S. v. Mundell*, Id. 15,834; *Banks v. Greenleaf*, Id. 959.]

<sup>1</sup>Mr. Sumner, author of remarks on the funeral of Mr. Justice Story, published In the October number of the Law Reporter.

<sup>1</sup> [Note by Mr. Goodman:] During the utterance of these remarks I remembered an anecdote current among the Judge's relatives, but which I did not relate, as I could not vouch for its authenticity. But after the bar meeting I was assured of its truth by a member of his family, and now, while correcting the stenographer's report, add it as an illustration of Judge Woodruff's absorption in the performance of his duties. Given, like all American judges, to the custom more honored in the breach than the observance, of writing long opinions, he became so engaged in that, to him, pleasurable occupation, one night, at his residence in Twenty-Ninth street, as to become unaware how many of the small hours had passed, and, hearing a noise in the hall rushed out of his library, expecting to confront a midnight robber, and astonished the housemaid, who had come down to her usual morning work, and was opening the front doors for the day. (R. G.)

\* Hoisting up and down, or loading and unloading.

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