

LIFE SKETCHES

OF

EMINENT LAWYERS,

AMERICAN, ENGLISH AND CANADIAN,

TO WHICH IS ADDED

THOUGHTS, FACTS AND FACETIÆ.

IN TWO VOLUMES.

BY
GJC
GILBERT J. CLARK, ESQ.,

OF THE KANSAS CITY BAR; AUTHOR OF ENGRAVINGS OF 144 "EMINENT
AMERICAN, ENGLISH AND CANADIAN LAWYERS,"

IN TWO EDITIONS.

KANSAS CITY, MO.:
LAWYERS' INTERNATIONAL PUBLISHING CO.
1895.

S
US
908
CLH

JOSEPH STORY, MASSACHUSETTS.

(1779-1845.)

“The Walter Scott of the Common Law.” Thirty-four years Associate Justice of the United States Supreme Court. Born at Marblehead, Massachusetts, September 18, 1779; died at Cambridge September 10, 1845, aged sixty-six. Graduated at Harvard at nineteen. Read law with Samuel Sewall, afterward Chief Justice of Massachusetts; moved to Salem, 1801, when and where he was admitted at the age of twenty-two. Argued when thirty-one in the United States Supreme Court the great Georgia claim case, *Fletcher v. Peck*. At this age he edited a new edition of Chitty on Bills of Exchange and Promissory Notes, and Abbott on Shipping. In 1831 he declined the Chief Justiceship of Massachusetts, and succeeded Mr. Justice Cushing on the United States Supreme bench at thirty-two years of age, the youngest judge, except Justice Buller, of England, ever called to the highest station, in England or America.

To his vast professional labors even those of Coke and Eldon must yield in extent. His name was

well known in Westminster Hall and in the judicatories of Paris, Berlin, Stockholm, St. Petersburg, and in the universities of Germany, Italy and Spain. He must yield to Marshall as a logician, but he greatly surpassed him in general legal scholarship. Rivals Stowell in admiralty and Kent in equity. Though a Judge of the Supreme Court, and for sixteen years law lecturer at Harvard, and many years president of a Salem bank, he gave to the world some thirteen volumes of legal treatises,—more works on jurisprudence than any other writer of his time. Besides, he gave many discourses, wrote many legal essays, and drew up a vast number of important acts of Congress. “Swept,” says Carson, “the bounds of jurisprudence with comprehensive glance, and poured forth the rich accumulations of his industry with flowing pen.” Says Irving Browne: “His chief characteristic is not strength, but learning, fullness and variety.” His decisions (7 Cranch. to 3 How., 35 volumes), 271 in number, including eight dissents, are marked by logic, clearness, learning and illustration, but lacked, says John W. Wallace, “accuracy and patient investigation.”

Human Wisdom.

“Human wisdom is the aggregate of all human experience, constantly accumulating, and selecting, and re-organizing its own materials.”

Law.

“No one appreciates more fully than myself the general importance of the study of the law. No one places a higher value upon that science as the great instrument by which society is held together and the cause of public justice is maintained and vindicated. Without it, neither liberty, nor property, nor life, nor that which is dearer than life, a good reputation, is for a moment secure. It is, in short, the great elastic power which pervades and embraces every human relation. It links man to man by so many mutual ties, and duties, and dependencies, that, though often silent and unseen in its operations, it becomes at once the minister to his social necessities and the guardian of his social virtues.”—From an address at Harvard, 2d Centen. Anniv., Sep. 8, 1836: 2 Story's Life and Letters, p. 264.

The Value of an Index.

“The value of an accurate index is well known to those who have frequent occasion to consult voluminous works in any science, and to construct a good one requires great patience, labor and skill.”—North American Review, Vol. 23, p. 39,

State Decisions.

“We will never immolate truth, justice and the law, because a State tribunal has erected the altar and decreed the sacrifice.”—*Swift v. Tyson*, 16 Peters, 1.

His Standing Before Thirty-two.

When appointed to the bench at thirty-two years of age, his professional income was \$5,000 a year, probably equal to \$25,000 now; had appeared in the Supreme Court of the Nation; took issue with Lord Hale before Chief Justice Parsons in *Rust v. Low*, 6 Mass., 90, on a legal question, arguing that Hale was wrong and misunderstood the authorities, for which assertion he was told by Judge Parsons that he undertook a difficult task, but he convinced the judge and won the case; and met on equal terms the giants of the Massachusetts bar.

Lord Campbell's Estimate.

Lord Campbell said in the House of Lords: “He is greater than any law-writer of whom England can boast, or whom she can bring forward, since the days of Blackstone.”

The Press.

“Here shall the Press the People's rights maintain,
Unawed by influence and unbribed by gain;
Here patriot Truth her glorious precepts draw,
Pledged to Religion, Liberty and Law.”

—Motto for the Salem Register, written by Story.

Not Accurate, Nor Patient in Investigation.

“His power of synthesis was considerable; but when you have heard his opinions and text-books dissected by analytical men at the bar as often as I have, you will come to the conclusion that his mind was deficient in accuracy, that its discipline was not strict, nor its investigations patient. His reputation, which was in a good degree a reflected one from England, where he took great pains to make himself known, has not, I think, stood firm in the professional mind to this day. And I much doubt whether he had any accurate knowledge of the civil law.”—From letter of John William Wallace, Reporter of the Supreme Court of the United States, to Hampton L. Carson, Jan. 31, 1876: Carson’s History of the U. S. Supreme Court, p. 238.

His Labors.

According to his biography, carefully prepared by his son, Judge Story delivered thirteen volumes of Circuit Court decisions, had a large share in thirty-five volumes of Supreme Court decisions, prepared thirteen volumes of legal treatises, besides discourses, essays in the North American Review, drew up many important acts of Congress, such as the Judiciary and Crimes act, and discharged the duties of law professor with regularity and success. “In quantity, all other authors in the English law, and all judges, must yield to him the palm.”

Story and Everett.

When Edward Everett was Governor of Massachusetts, a great dinner was given in honor of Judge Story. After dinner had been disposed of, Mr. Everett arose to the toast, "The legal profession: however high its other members may climb, they can never rise higher than one Story." Applause and cheering followed. When it had subsided Judge Story rose and quietly remarked: "Applause follows fame where ever it (Everett) goes."

Framed a Statute and Could not Tell What It Meant.

"Being once employed by Congress to draft an important law, Judge Story spent six months in trying to perfect its phraseology, so that its sense would be clear beyond the shadow of a doubt. Yet in less than a year, having heard the arguments of two able attorneys in a suit which came before him as a Judge of the United States Supreme Court, he was utterly at a loss to decide upon the statute's meaning."—Mathews' "Words: Their Uses and Abuses," p. 252.

Kent's Tribute To.

"I think all the treatises of Story are, on the whole, the most finished and perfect of their kind to be met with in any language, foreign or domestic; and for learning, industry and talent he is the most extraordinary jurist of his age."—Chancellor Kent.

Text-Books Thrown Together.

“Whole chapters of some of his books seem to be little more than windrows of head notes, raked together as the farmer rakes his hay in the mow-field; but when we survey the ground, the wonder is that his work was so well performed. His opinions will probably stand higher in the hereafter than his text-books, except his work on ‘The Conflict of Laws,’ and the ‘Constitution.’”—John M. Shirley, “Dartmouth College Causes,” p. 330.