

SKETCH

OF THE

LIFE OF SAMUEL DEXTER, LL. D.

BY THE

HON. JOSEPH STORY, LL. D.

JUDGE OF THE SUPREME COURT OF THE UNITED STATES,

AND

PRESIDING JUDGE OF THE CIRC. COURT OF THE U. S. FOR THE FIRST CIRCUIT,

AS DELIVERED TO THE

GRAND JURORS OF THE DISTRICT OF MASSACHUSETTS,

AND TO THE

MEMBERS OF THE SUFFOLK BAR

AT THE OPENING OF THE COURT IN BOSTON, MAY 15, 1816.

PUBLISHED AT THEIR JOINT REQUEST.

"Perfecti oratoris in hoc se et sapientia, non solum ipsius dignitatem, sed et
privatorum in rebus, et et universe reipublice salutem maxime continent."

"Honus jurisconsulti in hoc oraculum civitatis; maxima quotidie frequentia civium,
summosque horum splendore celebratur."

"In nostra civitate, simplicissimus quisque et clarissimus vir."

CRC. 23 CR.

BOSTON :

PRINTED BY JOHN ELIOT.

1816.

SKETCH.

I HAVE now finished the brief review of those offences which are most important in the criminal code of the United States. And happy should I be, if I could congratulate you on the peace and general prosperity of our country without mingling emotions of a painful nature. But how is it possible to enter this hall of justice and cast my eyes among my brethren at the bar, without missing one, who for many years has been its distinguished ornament.

On ordinary occasions of the loss of private or professional friends we may properly bury our sorrows in our own bosoms. In such cases the public do not feel that deep sympathy, which authorises us to speak aloud our anguish and disquietude. But when such men, as Mr. Dexter die, the loss is emphatically a public loss, and the mourners are the whole nation. To give utterance to our feelings is therefore a solemn duty. It is fit that the example of the great and good should be brought forward for the imitation of the young and ambitious; that gratitude for eminent services should find a voice as public as the deeds; and that exalted genius, when it has ceased to attract

admiration by living splendour, should be consecrated in the memories of those, whom it has instructed or preserved.

I feel assured therefore that I am not stepping aside from the path of duty, or pressing unduly upon your attention, by devoting a few minutes of your time to a sketch of the history and character of this illustrious lawyer and statesman.

Mr. Dexter was descended from a highly respectable parentage. His grandfather was a clergyman. His father, the Hon. Samuel Dexter, was a merchant, and resided many years at Boston, where his son Samuel was born in the year 1761. The father early distinguished himself in the struggles between the crown and the people of Massachusetts previous to the revolution; and for his public services was several times elected to the Council, by the House of Representatives, and as often rejected by the royal governor of the province. He was at length admitted to a seat in the Council by the prudence or the fears of the executive; but in 1774 was again negatived "by the express commands of his majesty." Towards the close of his life he retired altogether from public affairs, and engaged in a profound investigation of the great doctrines of theology. At his death he bequeathed a handsome legacy to Harvard University for the encouragement of biblical criticism; and upon this honorable foundation the Dexter lectureship has since been established.

Mr. Dexter, the son, after the usual preparatory studies, was matriculated at Harvard University in 1777, and received his first degree of bachelor of arts in 1781. During his residence at the University he

gave ample promise of those talents, which shed so much lustre on his riper years. At a public exhibition he delivered a poem, which was at that time received with great applause, and is still considered as highly creditable to his taste and judgment. On receiving his degree he was selected for the first literary honors in his class, which he sustained with increasing reputation.

He now determined to engage in the profession of the law, a science, whose acute distinctions and logical structure were wonderfully adapted to invigorate and develop the powers of his understanding. He passed the usual preparatory term at Worcester, under the tuition of the Hon. Levi Lincoln, then an eminent counsellor at the bar, and since Lieut. Governour of the Commonwealth. During this period, and for several years after his admission to the bar, Mr. Dexter devoted himself with unceasing assiduity to acquire the elements of law; and, as may be easily supposed from his great abilities, he was completely successful in his purposes. Notwithstanding many discouragements of a public nature which at that time pressed heavily on young lawyers, Mr. Dexter rose rapidly into professional notice, and soon found himself surrounded with clients and business. In a short time he was chosen to the State Legislature; and his sound judgment and comprehensive policy gave him great weight and influence in all the deliberations of that body. From the State Legislature he was transferred to the Congress of the United States, being first elected to the House of Representatives; and afterwards to the Senate, by the suffrages of his native state. Perhaps there has been no period

since the establishment of the government, which more imperiously demanded all the foresight, virtue, and discretion of the ablest statesmen, than that in which Mr. Dexter was called to assist in the national councils. The first talents in the respective parties, which then divided the country, were drawn into Congress. The floors of the two houses became a vast amphitheatre, on which the struggles for political power and principle were maintained with all the eloquence of rhetoric, and strength of reasoning, which the zeal of party could enkindle in noble minds. The most deep and impassioned feelings took possession of the nation itself; and the same thrilling sensations, which agitated Congress, electrified the whole continent. It seemed, as if every power of the human mind was summoned to its proper business, and stretched to the most intense exertion. Many of you can recal the emotions of those days; and to those of us, who were then reposing in academic shades, the light, that burst from the walls of Congress, seemed reflected back from every cottage in the country. At no period of his life did Mr. Dexter more completely sustain his reputation for extraordinary talents. His clear and forcible argumentation, his earnest and affecting admonitions, and his intrepid and original developement of principles and measures, gave him a weight of authority, which it was difficult to resist. Perhaps no man was ever heard by his political opponents with more profound and unaffected respect.

Mr. Dexter resigned his seat in the senate on his appointment as Secretary of War under the administration of President Adams. He next received the office of Secretary of the Treasury; and during a

short period of vacancy discharged also the functions of the department of State. These were to Mr. Dexter new and untrodden paths. The habits of his life, and the pursuits of his mind were ill suited to that minute diligence and those intricate details, which the business of war and finance unavoidably impose upon the incumbents of office. He felt a great reluctance to engage in such employments, for which he professed no peculiar relish, and in which his forensic discipline and senatorial experience might not always guide him to correct results. His acceptance of these high stations was not therefore without much hesitation; but having accepted, he immediately employed the whole vigour of his mind to attain the mastery of all their multifarious duties. That he fully accomplished his purposes can be no surprise to those, who knew him. Such was his intellectual capacity and discrimination that, what he had the wish to acquire, cost him far less, than any other man. The readiness, with which he received knowledge, seemed at times almost like instantaneous inspiration. He did not often choose to engage in laborious inquiries; but he had the necessary firmness and perseverance to attain, whatever was essential to his ambition or public duties.

Towards the close of Mr. Adams's administration he was offered a foreign embassy, which he declined; and upon the accession of Mr. Jefferson to the presidency he resigned his public employments, and returned to the practice of the law with unabated zeal. From this period he engaged less in political controversies; and reserved himself principally for professional or theological researches. He had always ac-

customed himself to an independence of thinking upon all subjects, legal, political and religious. He subscribed to no man's creed; and dealt in the dogmas of the school of no master; but he examined, weighed, and decided every thing for himself. He observed, or thought he observed, that parties were gradually changing their policy and principles; and on this account he seems to have felt less desire to engage in controversies, where his judgment and political friendships might not always be reconcilable. On two memorable occasions, which are yet fresh in our recollections, he took an active political part. I refer to his opposition to the embargo and non-intercourse system, and his support of the late war. But except in these instances, he rarely, if ever, appeared after his return to the bar, as the strenuous advocate or opposer of any of the great political measures, which agitated the nation. It was not that he looked on with indifference, or sought to evade responsibility by equivocation or reserve. On the contrary, he was always frank, communicative and decided. But his judgment was so little in unison with the wishes of any party, that he expressed his opinions, rather as guides of his own conduct, than from a hope to influence others. He was as incapable of deceiving others, as he was of deceiving himself; and would rather surrender the popularity of a whole life, than submit his own judgment to any sect in church or state.

It is not unusual for men of eminence, after having withdrawn a few years from the bar, to find it difficult, if not impracticable, to resume their former rank in business. Nothing of this sort occurred to check the progress of Mr. Dexter. He was immediately

engaged in almost all important causes in our highest courts; and popular favour seemed to have increased rather than diminished during his temporary retirement. From the triumphs and victories of the State Bar, his reputation soon carried him to the Supreme Court of the United States, where it has been my pride and pleasure, for many years, to have seen him holding his career in the foremost rank of advocates. This would entitle him to no ordinary praise; for that bar has been long distinguished by the presence of many of the most illustrious lawyers in the union.

In no situation have the admirable talents of Mr. Dexter appeared with more unclouded lustre than in his attendance on the Supreme Court at Washington. For several years he passed the winters there, under engagements in many of the most important causes. Rarely did he speak without attracting an audience composed of the taste, the beauty, the wit and the learning, that adorned the city; and never was he heard without instruction and delight. On some occasions involuntary tears from the whole audience have testified the touching powers of his eloquence and pathos. On others a profound and breathless silence expressed more forcibly, than any human language, the rivetted attention of an hundred minds. I well remember, with what appropriate felicity he undertook in one cause to analyze the sources of patriotism. I wish it were possible to preserve the whole in the language, in which it was delivered. No one, who heard him describe the influence of local scenery upon the human heart, but felt his soul dissolve within him. I can recal but imperfectly a sin-

gle passage, and, stripped of its natural connexion, it affords but a glimmering of its original brightness. We love not our country, said the orator, from a blind and unmeaning attachment, simply because it is the place of our birth. It is the scene of our earliest joys and sorrows. Every spot has become consecrated by some youthful sport, some tender friendship, some endearing affection, some reverential feeling. It is associated with all our moral habits, our principles and our virtues. The very sod seems almost a part of ourselves, for there are entombed the bones of our ancestors. Even the dark valley of the shadow of death is not without its consolations, for we pass it in company with our friends. In a still more recent instance, and indeed in one of the last causes he ever argued, he took the occasion of an appropriate discussion, to expound his own views of the constitution, and, dropping the character of an advocate, to perform the paramount duty of a citizen. He seemed, as if giving his parting advice and benedictions to his country, and, as if he had worked up his mind to a mighty effort to vindicate those solid maxims of government and policy, by which alone the union of the states might be upheld and perpetuated. It is deeply to be regretted, that his just and elevated views are now confined to the frail memories of those who heard him.

In the spring of 1815 Mr. Dexter was requested by President Madison to accept an extraordinary mission to the court of Spain; but from a reluctance to go abroad he declined the appointment.

During the last winter Mr. Dexter was for a few days afflicted with the epidemic prevailing at Washington; and was once compelled from indisposition to

stop in the argument of a cause. He had however entirely recovered, and never seemed in better health. On his return from Washington he went with his family to Athens, in the state of New York, to assist in the celebration of the nuptials of his son. He arrived there on Tuesday the 30th of April, somewhat unwell; but no serious alarm for his safety existed, until the day previous to his death. Finding his dissolution approaching, he gave the proper directions respecting his affairs, and prepared to meet his fate with the calmness of a christian philosopher. He could look back on a life devoted to virtuous pursuits without reproach, and his regrets could only be for his family and his country. About midnight on Friday, the 3d of May, he lost his senses, and in three hours afterwards he expired in the arms of his family without a struggle or a groan.

Such was the life and such the death of Mr. Dexter. I forbear to give a minute account of the literary honours, which he received, and of the public institutions, of which he was a member. I am aware how little I am qualified for the office of his biographer; but I have this consolation, that he needs no other panegyric, than truth. I will close these hasty sketches with a few remarks on his person, character, manners and acquirements.

In his person Mr. Dexter was tall and well formed, of strong well defined features, and bold muscular proportions. His manners were at a first interview reserved and retiring; and this was sometimes mistaken by a careless observer for austerity or pride. But this impression vanished on a farther acquaintance; and it was soon perceived, that though he made

no effort to court popularity, he was frank, manly, and accessible; and at the bar conciliatory and respectful. His countenance was uncommonly striking; and yet perhaps scarcely gave at once the character of his mind. Unless awakened by strong interests his features relaxed into a repose, which betrayed little of his intellectual grandeur. In such situations his eyes had a tranquil mildness, which seemed better suited to an habitual indolence of temperament, than to fervid thoughts. Yet a curious observer might read in his face the traces of a contemplative mind, sometimes lost in reveries, and sometimes devoted to the most intense abstractions of metaphysics. When roused into action, his features assumed a new aspect. A steady stream of light emanated from his eyes, the muscles of his face swelled with emotion, and a slight flush chased his pallid cheeks. His enunciation was remarkably slow, distinct, and musical; though the intonations of his voice were sometimes too monotonous. His language was plain, but pure and well selected; and, though his mind was stored with poetic images, he rarely indulged himself in ornaments of any kind. If a rhetorical illustration, or striking metaphor, sometimes adorned his speeches, they seemed the spontaneous burst of his genius, produced without effort, and dismissed without regret. They might indeed be compared to those spots of beautiful verdure, which are scattered here and there in Alpine regions amidst the dazzling whiteness of surrounding snows. In the exordiums of his speeches he was rarely happy. It seemed the first exercise of a mind struggling to break its slumbers, or to control the torrent of its thoughts. As he advanced, he became col-

lected, forcible and argumentative; and his perorations were uniformly grand and impressive. They were often felt, when they could not be followed.

Such was the general character of his delivery. But it would be a great mistake to suppose, because his principal favorite was ratiocination, that his delivery was cold, tame, or uninteresting. I am persuaded, that nature had given him uncommon strength of passions. The natural characteristics of his mind were fervour and force; and, left to the mere workings of his own genius, he would have been impetuous and vehement. But he seemed early to have assumed the mastery of his mind; to have checked its vivid movements by habitual discipline; and bound his passions in the adamantine chains of logic and reasoning. The dismissal of the graces of fancy and of picturesque description, were with him a matter of choice, and not of necessity. He resigned them, as Hercules resigned pleasure, not because he was insensible of its charms, but because he was more enamoured of wisdom. Yet, as if to show his native powers, he has sometimes let loose the enthusiasm of his genius, and touched with a master's hand every chord of the passions, and alternately astonished, delighted, and melted his hearers. Something of the same effect has been produced, by, what may be fitly termed, the moral sublimity of his reasoning. He opened his arguments in a progressive order, erecting each successive position upon some other, whose solid mass he had already established on an immoveable foundation, till at last the superstructure seemed, by its height and ponderous proportions, to bid defiance to the assaults of human ingenuity. I am aware that these expressions may

be deemed the exaggerations of fancy, but I only describe, what I have felt on my own mind; and I gather from others, that I have not been singular in my feelings.

It would be invidious to compare Mr. Dexter with other illustrious men of our country, either living or dead. In general acquirements he was unquestionably inferior to many; and even in professional science he could scarcely be considered, as very profound, or very learned. He had a disinclination to the pages of black-lettered law, which he sometimes censured as the scholastic refinements of monkish ages; and even for the common branches of technical science, the doctrines of special pleading, and the niceties of feudal tenures, he professed to feel little of love or reverence. His delight was to expatiate in the elements of jurisprudence, and to analyze and combine the great principles of equity and reason, which distinguish the branches of maritime law. In commercial causes, therefore, he shone with peculiar advantage. His comprehensive mind was familiar with all the leading distinctions of this portion of law; and he marked out with wonderful sagacity and promptitude, the almost evanescent boundaries, which sometimes separate its principles. Indeed it may be truly said of him, that he could walk a narrow isthmus between opposing doctrines, when no man dared to follow him. The law of prize and of nations were also adapted to his faculties; and no one who heard him upon these topics, but was compelled to confess, that if he was not always convincing, he was always ingenious; and that when he attempted to shake a settled rule, though he might be wrong upon authority

and practice, he was rarely wrong upon the principles of international justice.

In short, there have been men more thoroughly imbued with all the fine tinctures of classic taste; men of more playful and cultivated imaginations; of more deep and accurate research, and of more various and finished learning. But if the capacity to examine a question by the most comprehensive analysis; to subject all its relations to the test of the most subtle logic; and to exhibit them in perfect transparency to the minds of others:—If the capacity to detect, with an unerring judgment, the weak points of an argument, and to strip off every veil from sophistry or error:—If the capacity to seize, as it were by intuition, the learning and arguments of others, and instantaneously to fashion them to his own purposes:—If, I say, these constitute some of the highest prerogatives of genius, it will be difficult to find many rivals, or superiors to Mr. Dexter. In the sifting and comparison of evidence, and in moulding its heterogeneous materials into one consistent mass, the bar and the bench have pronounced him almost inimitable.

His eloquence was altogether of an original cast. It had not the magnificent colouring of Burke, or the impetuous flow of Chatham. It moved along in majestic simplicity, like a mighty stream, quickening and fertilizing every thing in its course. He persuaded without seeming to use the arts of persuasion; and convinced without condescending to solicit conviction. No man was ever more exempt from finesse or cunning in addressing a jury. He disdained the little arts of sophistry or popular appeal. It was in his judgment something more degrading than the sight of

Achilles playing with a lady's distaff. It was surrendering the integrity, as well as honour of the bar. His conduct afforded, in these particulars, an excellent example for young counsellors, which it would be well for them to imitate, even though they should follow in his path with unequal footsteps.

His studies were not altogether of a professional nature. He devoted much time to the evidences and doctrines of christianity; and his faith in its truths was fixed after the most elaborate inquiries. That he was most catholic and liberal in his views, is known to us all; but, except to his intimate friends, it is little known, how solicitous he was to sustain the credibility of the christian system; and how ingenuous and able were his expositions of its doctrines.

As a statesman, it is impossible to regard his enlightened policy and principles without reverence. He had no foreign partialities, or prejudices to indulge, or gratify. All his affections centered in his country; all his wishes were for its glory, independence and prosperity. The steady friend of the constitution of the United States, he was, in the purest and most appropriate sense of the terms, a patriot and a republican. He considered the union of the States as the pole-star of our liberties; and whatever might be his opinion of any measures, he never breathed a doubt to shake public or private confidence in the excellence of the constitution itself. When others sunk into despondency at the gloomy aspect of public affairs, and seemed almost ready to resign their belief in republican institutions, he remained their inflexible advocate. He was neither dismayed by the intemperance of parties, nor by the indiscretion of rulers. He

believed in the redeeming power of a free constitution; and that, though the people might sometimes be deceived, to their intelligence and virtue we might safely trust to equalize all the eccentricities and perturbations of the political system. He had the singular fortune, at different times, to be the favorite of different parties, occupying in each the same elevation. It is not my purpose to examine, or vindicate his conduct in either of these situations. I feel indeed, that I am already treading upon ashes thinly strewn over living embers. The present is not the time for an impartial estimate of his political conduct. That duty belongs, and may be safely left, to posterity. Without pretending to anticipate their award, we may with some confidence affirm, that the fame of Mr. Dexter has little to fear from the most rigid scrutiny. While he lived, he might be claimed with pride by any party; but now that he is dead, he belongs to his country.

To conclude,—Mr. Dexter was a man of such rare endowments, that in whatever age or nation he had lived, he would have been in the first rank of professional eminence. It is unfortunate, that he has left no written record of himself. The only monument of his fame rests in the frail recollections of memory, and can reach future ages only through the indistinctness of tradition or history. His glowing thoughts, his brilliant periods, and his profound reasonings, have perished forever. They have passed away like the dream of a shadow. He is gathered to his fathers; and his lips are closed in the silence of death.

I rejoice to have lived in the same age with him; and to have been permitted to hear his eloquence, and

to be instructed by his wisdom. I mourn, that my country has lost a patriot, without fear or reproach. The glory that has settled on his tomb will not be easily obscured; and if it shall grow dim in the lapse of time, I trust that some faithful historian will preserve the character of his mind in pages, that can perish only with the language, in which it is written.