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CHURCH IN BRATTLE SQUARE,

BOSTON, AUGUST 1, 1830,

THE LORD'S DAY AFTER THE DECEASE OF THE

HONOURABLE ISAAC PARKER,

Chief Justice of Massachusetts.

BY JOHN G. PALFREY, A. M.

Pastor of the Church in Brattle Square.



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EXODUS xviii. 21, 22.

Thou shalt provide out of all the people able men, such as fear God, men of truth, hating covetousness, and place such over them,—and let them judge the people.

Magistracy is one of the greatest trusts committed to human integrity and wisdom. Under forms of government which have generally prevailed, men's imaginations, excited by a sense of its importance, are not satisfied without seeing it invested in an external array, significant of its exaltation above the common offices of life. It must wear the purple or the ermine. It must dwell in a palace, and move abroad attended by a crowd. Under our simpler institutions, we dispense with its livery and its parade; and possibly, to the vulgar view, its essential dignity is thereby made less imposing. The plain man, who meets his neighbours on an equal footing in the common scenes of life, dazzling them with no show, repelling them by no arrogance, may be forgotten by them to be the same, who, day and night, is holding steadily over them and theirs the shield of the sovereign power. But the wise do not need the "pomp and circumstance" of authority, to remind them that he, who is

worthily clothed with it, is an object for their reverence. They only see cause to revere him the more, that he is able to reconcile such simplicity of private manners with the prerogatives of such a lofty walk of duty, and that he is willing to lend himself to the anxious cares of office, without those inducements of luxury and rank, which are held out to rulers of less privileged communities as fair indemnity for renouncing the ease and liberty of a private station.

There is, perhaps, room for the further remark, that, as far as there exists a fit apprehension among us of the importance of the trust of magistracy, it is chiefly in favor of those whose sphere of office is in the administration of the central government. They act on a larger theatre, and are most conspicuously before the whole community. Assuredly we can scarcely entertain too grateful a sense of faithful services employed in adjusting well our relations to foreign states, or, by the establishment and application of wholesome laws, protecting and enriching the sources of our internal prosperity. But we should neither be wisely attentive to our own welfare, nor just to those on the honest action of whose minds we are most continually dependent, if we should degrade into any secondary estimation the men, whom, in the administration of our own commonwealth, we have called to watch over our lives, our property, our reputation,—in short, over all our interests of the most intimate concern.

This important trust of magistracy the text briefly instructs us who they are who should be appointed to

discharge. First; *thou shalt provide, out of all the people, able men.*

They whose province is the execution of the laws, for the most part act in a subordinate capacity. Their discretion is overruled by legislation and judicial sentence, and the ability, which they chiefly need, is that of calm, and, at the same time, steadfast resolution.—Legislators need to be able men. They have many interests to consider, and to reconcile, or, at least, balance and adjust. The rules which they approve are thenceforward to be no abstract and dormant propositions, but are to modify, from that moment, the relations of all the citizens in a community. What they determine to be right, thenceforward commands the resources of a community to carry it into effect. It is a power which reaches every where, and is no where to find resistance. They need to be able men, who shall discern and determine the action of such a power, so that every where its action may be salutary.—Judges may well be required to be able men. On the whole, there is no trust reposed by men in one another so august as theirs. By nothing human am I awed, so much as by a tribunal of justice. It is not the show of sedate, but decisive power; it is not that the will, which is there announced, is one which there is no opposing nor escaping; it is not that there are resolved the great issues of liberty and property, of life and death. But it is, that the will, which is there announced, approaches the nearest that human infirmity can approach, to being a perfectly righteous

will. It is, that the voice of law is the clear and solemn voice of pure reason arbitrating among the concerns of men. It is that here is in action the most complete apparatus, which the experience of ages has been able to construct, for the manifestation of naked truth; that here is the closest application of the human mind to its discovery. "Of law," says Richard Hooker*, in a passage not more brilliant with other beauties than with the leading one of truth, "of law there can be no less acknowledged, than that her seat is the bosom of God, her voice the harmony of the world. All things in heaven and earth do her homage; the very least as feeling her care, and the greatest as not exempted from her power; both angels and men, and creatures of what condition soever, though each in different sort and manner, yet each with uniform consent, admiring her as the mother of their peace and joy;"* and that understanding, which is an inspiration of the Almighty, is never in more admirable exercise, than when, aided by the mutually opposing views which other highly endowed and richly instructed minds propose and urge, and biassed itself to neither, raised by every possible security above the influence of favour or of fear, it moderates between them; traces the fair form of truth by its own lights through every path they open; separates the problem from its accidents, and the principle from erroneous applications which may have obscured it; and ascertains the absolute rule of right, not only for the deter-

* Ecclesiastical Polity, Book I. *ad fin.*

mination of the question now agitated, but for the permanent rule of future proceedings. He whose own resources are expected to be equal to such investigation,—whose own patient and clear-sighted moderation must hold the reins, when the most vigorous and fervid minds are in the full career of a mutually quickened excitement,—who, in concerns so complicated, must be looked to to commit no error, where no error could fail to be a wide mischief,—who should make his contribution, for future times, to the settled doctrines of social justice,—assuredly he needs to be provided out of all the people, not only from among able, but from among the most able men.

Secondly ; thou shalt provide *men of truth* out of all the people, says our text, and place such over them.—We need to be sure that they whom we elevate to the trust of magistracy shall be men of truth, in the sense of being men of probity ; men faithful to the truth, as far as it has disclosed itself to them ; prompt and explicit to make it known, firm in adherence to it, and careful that, as far as depends on them, it shall fully do its office, in regulating concerns of others, to which it may have application. Publick provisions may remove from a publick officer many temptations to swerve from the path of integrity. But they cannot make him a man of integrity ; and if he is capable of being seduced or intimidated into apostasy from uprightness and truth, he is only the more to be dreaded for possessing an ability, which may help him to disguise or defend his deviations.—He should be a

man of truth, in the sense of having that attachment to it, which shall lead him to seek it by diligent investigation. He should be impressed with that sense of the worth of truth, and of the strong necessity there is that what he announces for its dictates, should indeed be such, that he will not be satisfied to take up with first impressions, nor think any pains too great, by which truth, in its most unequivocal signatures, may be ascertained.—Once more, he must be a lover of truth, not only that his ability may not be perverted, but that we may be assured of his ability being of the highest character. Love of truth is not a moral quality alone. It deserves to be ranked among qualities which make up intellectual power. Nay, it may claim to be ranked highest among them; to be esteemed the first of talents. The capacity of discovering truth is the great attribute of human reason; and certainly nothing goes further towards the discovery of truth, than that state of inclination towards, and correspondence with it, which love of it involves; nor can any thing else do so much, to subject the other faculties to an effectual training to make them available to this end. Without a presiding love of truth, men may exhibit extraordinary powers to persuade, or illustrate, or beautify; but without this,—without this, I say, not attributed, but really existing,—the fame of an understanding of the first order was never permanently established by any man. Without this, no tangible contribution was ever made to the resources of the human mind, any more than to the well-being of human society.

Another qualification for the magistracy, which our text specifies, is a *detestation of covetousness*. We would have our magistrates hate covetousness, because we would be sure that their *love of truth*, that their integrity, is above temptation. Invested with such high powers, we might well tremble, if we should see them possessed by a sordid passion, the gratification of which might seduce them from the path of right. We would wish to have in their characters a pledge of something more than an incapacity of being swayed by any coarse form of bribery. We shall feel the more secure, if we witness in them no such covetousness of popular favour, as might seem like an ambition after higher prizes, which publick favour has to bestow,—for, betraying such a feeling, we might fear that they would systematically aim, or that they would be insensibly biassed, to make the office which they hold a stepping stone to the office which they desire, and thus that the popular clamour would be louder in their ear than the private citizen's claim for his rights. It will gratify us to see that they are not covetous of accumulation for the sake of luxury and state; for then we might apprehend that their sympathies would be hurtfully estranged from that humbler mass of society, above which they seemed desirous to exalt themselves; or, at least, that their minds might come to be occupied with objects merely trifling compared with their proper pursuits. And, on the other hand, we shall be little satisfied to witness in them the covetousness which stints and hoards, for we would

not have minds, which must embrace subjects so large, and lift themselves to speculations so lofty, belittled and dwarfed by a parsimonious spirit. It will add greatly to our confidence in them, if we may see that their assumption of office has been disinterested, and dictated by views to the publick good. It is a sad condition of a country, when office is desired chiefly for its emoluments. It is a deplorable and a fearful thing, when the majestic trust of ordering a community's concerns is converted into a job of private selfishness. We may prophecy in sack-cloth for a people capable of using their political privileges with a view to political preferment and its profits. In our country, and certainly not least in our commonwealth, we have been used, in past time, to other examples. We have been accustomed to see the most esteemed citizens under a sense of publick duty, assuming high office, at personal sacrifice ;—because, for the common safety, they would not see such momentous trusts committed to inferiour hands. God grant it be long before that noble race shall be seen to be extinct among us !

Once more ; it is said, thou shalt provide out of all the people *such as fear God*, and let them judge the people. The fear of God, witnessed to be a rooted principle in a magistrate's heart, gives us the only complete assurance of his fidelity. It assures us not only that he will not knowingly pervert his trust to ill uses, but that he will bend himself to all its duties with a scrupulously conscientious purpose. It satisfies us, that, religiously observant of the oath of God

which is upon him, we shall no more find him remiss or unprofitable, than we shall find him partial or oppressive; that he will diligently seek for guidance at the best sources; that he will give to his tasks the best application of his mind; and that he will watch cautiously and humbly against exposures to error. In a religious community like this, we would have our magistrates fear God, because we would not have them without sympathy with ourselves on the most important of all subjects, and a subject the most intimately related to the well-being of all communities. They are conspicuous examples to the whole people whom they serve,—models, to no small extent, on which is to be formed the character of the rising generation; and, in these respects, we would not lose the benefit of their being avowed friends to the church of Christ.

If it had been our purpose, my hearers, to compose a compendious description of the eminent citizen, who has just ceased from his labours in the midst of us, we could not have done better than to select the words in which our text enumerates the qualifications of a competent magistrate. The character, in which those whom I address have viewed him, was the completion of his labours in building up an enviable name. But, from first to last, his was a singularly exemplary course. In the contemplation of it all, it is safe to say, that he has left few, “either wiser or better behind.” The late Chief Justice Parker, the son of a merchant of this town, the straitened circumstances

of whose declining life threw a cloud over the early prospects of his family, was born in Boston, June 17th, 1768, and after going through the steps of his preparatory education at the publick Latin Grammar School, was admitted to the University, when fourteen years old. His cotemporaries, who, in every instance that I know,—and these are not a few, considering the distance of time,—have since maintained for him a warm personal friendship, represent his course at that institution to have been in a high degree honourable, in regard alike to deportment and acquisitions, to the evidence which he gave of uncommon talent, and the attachment which he universally inspired. Having been employed a short time as a teacher in the school where his early instruction had been received, and afterwards completed the preparatory study of the law under the direction of Judge Tudor of this place, he established himself for its practice in the town of Castine, in Maine, then a recent settlement; and, in twelve years after leaving college, was already representative in Congress of the district within which that settlement was included. During part of the administration of Mr. Adams, the elder, he was United States Marshal for the district of Maine, from which office he was displaced on the accession of Mr. Jefferson to the Presidency. Three years after this, at the age of thirty-six, having meanwhile removed to Portland, he was invited to a seat on the bench of the Supreme Court of the Commonwealth. This proposition he saw fit, for the time, to decline; but accepted

it when renewed two years after, just before the late Chief Justice Parsons was elevated to that office. It was in the same year, that he presided at a criminal trial in this place,* involving questions of the most abstruse, delicate, and painful nature, and as fresh now in the memory of many of us as events of yesterday. On the death of Chief Justice Sewall in 1814, Judge Parker was placed at the head of the Court, of which he had now been eight years a member, and for sixteen years longer was permitted to preside over the administration of justice in our Commonwealth, having meanwhile also occupied the distinguished post of President of the Convention, called in 1820, to revise the State constitution. He died, as is well known, towards midnight of the last Lord's day, having been attacked, soon after waking the same morning, with an apoplexy, which from the first moment of its access, left to his distressed friends no hope, but that which refuses to expire except with extinguished life.

It would of course be only presumption in me, to undertake to speak of this great man in that character in which he is to be chiefly known to posterity. In the twenty-four years of his administration of our supreme judicature,—a longer period than any of his predecessors, under the constitution, has dispensed our laws from the highest tribunal,—he is said by those who are competent witnesses to the point, not only to have “won a name long to be remembered and treasured up

*The trial of T. O. Selfridge, on an indictment for manslaughter.

with the proud memorials of the Commonwealth," but to have produced "a body of law, which would do honour to the brightest periods of English jurisprudence ;"* and I observe that he is even pronounced in express terms, by one whose judgment is of the most approved currency, to have been "the most valuable publick servant, whom the judiciary department of this State has furnished."† It was well known that his mind was one of the most rapid, perspicacious, and clear, as well as the most candid. His candour ensured a patient attention from him to the exposition of all reasons,—but, with all this, there was no indecision in the man, except what belongs to that self-diffidence, and sense, at the same time, of the infinite worth of truth, which are perhaps always found united in the highest order of understandings. This led him, in his judicial capacity, to forbear to pronounce his judgments till he had weighed them carefully, and inspected them in all their bearings ; but then they were found to be based on reasons which none but a very great or a very bold man would undertake to impugn ; and in the reference of controversies to that joint tribunal which our institutions entrust with the inquisition into facts, the same distinctness of perception, and fairness of exposition were uniformly seen to be mingled. In making up his own decisions, or aiding those of others, most rarely did he seem to any to be carried

* Jurisprudent, No. for July 10, 1830.

† The extract is from a notice in one of the newspapers of the day, bearing the initials of the Hon. John Lowell.

further than his reasons went. Ready, on unexpected emergencies, to draw from the stores of a patiently acquired learning, and reduce it to new applications, within the competency of none but a philosophical mind, nothing could exceed the laborious devotion with which he addressed himself to the solution of intricate questions continually coming under his cognizance. I had some acquaintance with his intellectual habits, and I have known something of the habits of others of the hardest working intellects of our neighbourhood ; and it has been all along my impression, that, with all its vivacity, I have never known the mind so patient of severe labour, nor the mind, which during the period of my observation, has been so heavily tasked. This was no hardship to him. It never broke his spirit. It never quelled his gayety. He toiled strenuously and anxiously, as a good man must, in such a place, evolving such perplexities under such a responsibility. But he was widely useful, and he was purely happy. He had his reward for all, in the spreading reputation of the decisions of the court where he presided ; the established and continually growing confidence of his fellow-citizens ; the sense of the value of his services, to which his modesty could not be wholly blind ; and the consciousness, worth all the rest, of the principle under which he rendered them.

It is chiefly in the exercise of the judicial function, that the late Chief Justice is to be remembered as a publick character. In the early part of his career, when trusts which he held furnished more occasion

for the assertion of his views on political questions which divided the community, the part which he took was the most uniform and decided ; and in later years, he was never backward to express, in all becoming ways, the adherence of his ripened judgment to the men and principles which had secured his youthful preference. But, along with this perfect decision and unreserve, there was always seen such a private friendliness, and superiority to the besetting meannesses of party strife, that it is exceedingly rare to find a man so open and strenuous in the serious contests of party, and, at the same time, commanding, to such an extent, in his private relations, the respect and good wishes of opponents.

The original frame of Judge Parker's mind was such, that a discerning person,—who had undertaken to predict its destiny, before it had bent to the stubborn toils of one of the gravest sciences,—while he would have given it all credit for acuteness, comprehension, and strength, would have been likely to pronounce that it was to gain its high eminence in some walk of elegant literature. For works of imagination his taste was never lost nor abated. They made his customary relaxation from severer studies ; and there are few of those, who dispense themselves from a less attractive application on account of their tasteful devotion to the literature of the day, but would find, that, even in this department, his well economized leisure had laid up richer stores than their own. His facility and taste in composition were equally uncommon. There are few

known to us, who could express their thoughts in so flowing, vivid, graceful and exact a style. The interests of our infant literature were always very near his heart. He was a vigilant and effective Trustee of Bowdoin College, and afterwards rendered still more important services, on frequent occasions, as an Overseer of our own, which conferred on him several years since the dignity of its highest degree. He was a Fellow of the American Academy, and two years President of the society of Phi Beta Kappa, preceding in that office the late President of the United States. His uncommon power to simplify the abstrusest knowledge, combined with his distinguished professional attainments, recommended him to the chair of law instruction in the University, which he continued to fill, till within a short period, with the reputation which always followed him.

Judge Parker was, from principle, sentiment, habit, and experience, a religious man. Religiously educated and always well inclined, his mature manly reason saw, in the proposed evidences of our faith, the satisfactory credentials of a divine communication, and his heart promptly bowed to its authority. Sixteen years ago, along with another eminent christian magistrate, the first Mayor of this city, and the now widowed partners of both, he connected himself with this church of our Lord; and you, my brethren, can attest with me, how "holily, and justly, and unblameably" he has walked among us "in all the commandments and ordinances;" what an interest this church

has always maintained in his affections; what guidance we have been accustomed to find, as occasion offered, in his wisdom,—what impulse, at all times, in his example. For a long period an officer of our congregation, and always cheerfully taking a leading part on occasions of particular concern, he has never left us at a loss as to the feeling which he entertained for its prosperity. Becoming associated with you during the period of a ministry, whose premature termination was experienced by you to be one of the heaviest trials, the sentiment of personal friendship for him who was so early called away, seemed to strengthen his solicitude to watch over the trust bequeathed by one so prized and so lamented; and along with those of others, who, blessed be God! were animated by a kindred spirit, his endeavours have been prospered to preserve this religious community, through all subsequent events, in the “unity of the spirit,” the unbroken “bond of peace.”

The intelligent scriptural inquiries of this gifted mind had led to the adoption of views of christian doctrine, which on account of their connexion, more or less remote, with one cardinal point of true theology, are generally summed up under the denomination, Unitarian. But his reverential and hearty attachment to those views was just to itself, in being free from the slightest tinge of bigotry; and his undisguised avowal of the sense he entertained of their vast worth, owed none of its emphasis to expressions of unkindness towards dissentients. And while he bore every where

to the faith he had espoused that best testimony of a christian conversation, a sober, righteous, and godly life,—while it was seen to have disciplined him to a chastened moderation in the trials of eminence, and an uncomplaining submission under those of painful bereavement,—while in all places, publick and private, he was known zealously to support the institutions of our religion, habitually to recognize its principles, and firmly to assert its claims, he did not permit his interest to be doubted in practicable enterprises for its extension abroad, and the cultivation of the fruits which it yields, nor fail of such participation in enterprises of this nature as the specifick duties of a crowded life allowed. He was for a long time an attentive officer of the Massachusetts Bible Society; and the Evangelical Missionary Society for assisting in the support of the ministry in feeble parishes, and the association which led the way in the now auspicious reformation of prevailing intemperate habits, have respectively enjoyed the benefits of his countenance and counsels as their presiding officer.

I am not speaking to strangers, that I should enlarge, as if imparting information; and, if I were, I should be sure of failing to convey any thing like an adequate impression of the excellence, on which our affectionate memory is dwelling. I might go on to speak of the mild and facile virtues of the private man, which brought the distinguished magistrate within the range of the sympathies, and gave him a place in the hearts of the humblest of the good; of his

aptness to friendship, and constancy in that relation ; of his free and cordial, and, at the same time, unostentatious hospitality ; of his disinterestedness, which in the form of publick spirit, had so marked an influence, on the one hand upon his fortunes, and, on the other, upon his usefulness and his fame ; of his thoughtful consideration for the exposed, whom official relations brought before him ; of the tenderness of his commiseration for the guilty, and the readiness of his generosity to the destitute ; of the expansiveness of his benevolent feelings ; of his delicate deference to the aged, and familiar kindness to the young ; of his equanimity and gentleness, smoothing all difficulties, and subduing all impatience in those who might be acting with him, and scarcely known to be ruffled amidst the unavoidable vexations incident to the transaction of intricate affairs ; of the exemplary graces of his domestick character ; of the frankness and expression of confidence in his deportment, putting all who approached him at their ease ; of that habitual gayety of spirit, and power of ready adaptation to others' feelings, which only an exhaustless fund of kind and cordial feeling could supply ; of the honest, equal, friendly personal regard which he inspired, rarely excited in either a strength or extensiveness approaching this, by the most respected and valued publick men. I might speak of these distinctions, and other such. I might speak of them long. But you would say, that what I had glanced at, I had described very unsatisfactorily, and that there was much which I had left wholly untold.

My brethren, it has pleased a wise and righteous God to remove from his place of earthly service one whom the community and his friends had very special cause to value. At a moment when all eyes were turned to him with a solicitude scarcely paralleled before, waiting for decisions of his mind of the most solemn nature, affecting human life and the publick safety, he is suddenly summoned himself to the award of a more awful tribunal. We could not justify ourselves in complaining of the visitation of that Being, who lent him to us for our good so long. I am struck with the view in which an event remarkably similar presented itself, years ago, to his own devout and discerning mind. In the reflections, which he has left on record, upon the death of Parsons, removed from the same station at the same age, he seems to be presenting to us those which he would have us weigh, under the affliction we are suffering from his own. "That such a man as this,"—he said from the bench on that occasion,—“that such a man as this, whose mind had never been at rest, and whose body had seldom been in exercise, should have lived to the age of sixty-three, is rather a matter of astonishment than that he should then have died. When the first painful sensations at so great a loss have subsided, it is not unsuitable to take consolation from the possible, if not probable consequences of a prolonged life. Beyond the age at which he had arrived, I do not know that an instance exists of an improvement of the faculties of the mind, but many present themselves of deplora-

ble decay, and humiliating debility. Should it not be considered a happy, rather than a lamentable event, to escape the infirmities, the disabilities, and perhaps the neglects, of a protracted old age,—to die in the zenith of reputation, in the strength of one's understanding?"

He had his wish. He died in the glorious zenith of his reputation, in the proud strength of his understanding. In the disposal of that event, which coming however late, must have been felt to have come too soon by those whom he should leave, the lot which his forecasting wisdom approved, was ordained to be his own. We cannot admit the idea, that for him the supposition which he made could in any event have been realized. We cannot entertain the thought, that he could have lived long enough to find the community he had so served ungrateful, the friends to whom he was so dear growing cold. But he has filled up honourably and happily the appointed measure of his days. For him there was no dull pause between his human usefulness and his heavenly rest. His sun has shone on us in unallayed lustre to the last; and that for us should be enough. We lament that we are to have no more of his services and his society. We should rather rejoice that we have had so much of them. We should rather rejoice that he lived so long, so usefully, so prosperously; in all respects so well. His work is done. His race has been benefited by him. His fame is secure. History has it. It can no longer, by any chance, be defiled or perilled. The last chapter of his earthly life has been written, and it

stands indelibly in golden characters. He was ripe, as we firmly trust, for a loftier, happier sphere of service ; and then,—to be rapt away in the undimmed brightness of his earthly honours,—are we reasonable and believing men, and shall we pity, or rather congratulate such a fortune ?

While the community is overspread with a universal sadness, there have bitter tears been wept in a home one day most happy, and the next, by an overwhelming visitation, most bereaved and desolate. To the Father of the fatherless and the God of the widow, and to those Christian consolations of which we trust they know the worth, we affectionately commend those sufferers. In the life with which providence so closely implicated theirs, they have enjoyed what they might most reasonably have prayed for. In the memory of that life they still enjoy what the heart may repose on,—with pride, shall I say ?—certainly with hearty satisfaction, and with christian gratitude. It is a great privilege to have been the objects of such attachment and such care. It is a signal favour of providence which permits even the remembrance,—when the present benefit has ceased,—of relations so intimate, sustained to a great and good mind. If there be a soothing power in sympathy,—and every benevolent heart owns that there is,—may not their consolations abound with their griefs, when all worthy men around them,—shall I not say, when the whole publick, honestly, deeply sympathizes ? Their heavenly Father himself is tenderly compassionate of their

distress. In the very depth of the unfathomed sorrow, he has held out to them an acceptable pledge of this, in the truly gracious disposition of his providence, which, in an interval of publick duties, that had just before withdrawn their friend from their presence, and were forthwith to remove him again beyond the reach of their immediate care, sent him home, as his fate impended, to their own dwelling, to be translated from their arms.* May God be to them, to the end of their mortal pilgrimage, in the place of the friend whom he lent and has resumed ; and may all impressive lessons, of his life and of his death, be blessed to prepare them, the most concerned in both, for an indissoluble reunion with him among the spirits of just men made perfect !

On all of us, my hearers,—on all of this community,—who were benefited by the continuance of a life of such various usefulness, now devolves the obligation to turn its lamented termination to account. If we are not strangely unreflecting, such events cannot fail to do us good, in impressing on our convictions, how very much less every earthly thing else is, than a lofty, disinterested, and christian mind. It is not only the Bible which tells us this ; though if it were, that

* The allusion here, as well as at the head of the 21st page, is to the absence of Judge Parker at Salem, in attendance at a special term of the Supreme Court for the trial of persons accused of the murder of Mr. White. On the 20th July the term was opened with an elaborate charge from him to the Grand Jury. On the 23d he returned home, and died on the 25th. The trials, which, from the amount of testimony, were expected to occupy several days, were to have proceeded on the 27th.

should be enough. The crowd of men, in the hot chase of all the world's vanities, pauses and stands still with its response, when it sees the services of such a mind withdrawn. Why is it that we have just beheld the community, where we dwell, first saddened with a solemn apprehension, and then with a universal mourning? It was that the life of a devoted and useful servant of God and man,—the enemy of no one, the ready friend of all,—was threatened and was closed. Let us learn from men's own earnest testimony,—unequivocally given, on occasions like this,—that usefulness is true honour; that, along with the principle which must sustain it, it is the one thing supremely desirable upon earth; that it is profitable for the life which now is, as well as for the life which is to come. Let that spirit be coveted and adopted for his own by each individual among us. We cannot all manifest it in a like station. Our places are different. But none of us fills a place which will not find it exercise, and if in very few of us it can be as efficient, in all it may be as sincere. The calamity, which we must labour to improve, finds opportunities to address its lesson with a special impressiveness. It calls on the ministers of the law, and on all publick servants, to practise a like conscientiousness, and aim at like qualifications, to what they have been privileged to witness. It invites the young to propose to themselves to leave in the world a fame as fair, if it may not be as splendid. It urges the professed disciples of Christ to emulate,—and not stop short in

emulating,—the graces of him, whom they have resigned to the church invisible. To each it may have a distinct lesson ; but,—I repeat it,—it has one lesson for all. It is, that,—heedfully numbering our own days, and diligently applying our own hearts to wisdom,—if we may not bring an ability, we may, and should endeavour to bring a spirit such as this was, to render, in our generation, beneficial services to our fellow men, and acceptable services to our God.

With God is the residue of that same spirit, with which he was pleased to animate his now departed servant ; and he is able to repair the breach he has made, kindling the same spirit in other bosoms. When “the godly man ceaseth,” when “the faithful fail from among the children of men,” he does not cease from being his people’s help. May he, for his great goodness’ sake, watch over and help his people now, directing our honoured chief magistrate in the important decision so painfully devolved on him ; and may he be graciously pleased to raise up a succession of men of like spirit to his whom we lament, to be, in all time, ornaments to the church, pillars to the state, examples to the young, and blessings to society !

N O T E.

The kindness of an eminent Judge of the Supreme Court of the United States, enables me to enrich this publication with the following sketch of Judge Parker's character as an advocate and lawyer.

Mr. Chief Justice Parker brought with him to the Bench the reputation of an able, active and learned advocate. He had well earned that reputation by a course of long and honorable practice in the then District, now State of Maine. His talents (high as they were,) were not his only recommendation. He possessed what talents may adorn, but what talents, however shining they may be, never can supply, the *mens conscia recti*, an inflexible integrity, a deep-rooted and enlightened virtue. His private life was without reproach, his honour without stain, his political and civil career straightforward and steady. His manners were frank, modest, and winning, without ostentation and without affectation. Nature had given him a mild temperament, a quiet and moderated cheerfulness, an ingenuous countenance, and social kindness, which pleased without effort, and was itself easily pleased. But his most striking characteristic was sound sense, which though no science, is, in the affairs of human life, fairly worth all, and which had in him its usual accompaniments, discretion, patience, judgment. In his professional harangues he was persuasive and interesting; he had the earnestness of one, who felt the importance of fidelity to his client, and at the same time the sincerity of one, who felt the dignity of truth, and of that jurisprudence, whose servant he was, and whose precepts he was not at liberty to disown, and was incapable of betraying. In the sense sometimes affixed to the term, he did not possess eloquence, that is, he did not possess that vivid imagination, which delights in poetical imagery, or in rhetorical flourishes, in painting the passions or in exciting them into action. He was not addicted to a rich and gorgeous diction, or to colour his thoughts with the lights and shades, or the brilliant contrasts of a variegated style. But in a just sense, if we look to the means or the end, to his power of commanding attention, or his power of persuading, and convincing the understanding, he might be deemed truly eloquent. His reasonings were clear, forcible and exact; his language, chaste, pointed and select; his fluency of speech uncommon; his action animated; so

that in their actual union they gave a charm to his arguments, which won upon the ears and captivated the judgment of his audience.

Such was the reputation and character, which he brought to the Bench. He took his seat among distinguished men ; and he sustained himself as a worthy and equal associate. He did more, and accomplished what few men do accomplish ; he moved on with a continual increase of reputation even to the very hour of his death. He lived through times, happily now past, of peculiar delicacy and difficulty, in the midst of great political changes and excitements, when the tribunals of justice were scarcely free from the approaches of the spirit of discord, and the appeals of party were almost ready to silence the precepts of the Law. During this period, his firmness, moderation, patience, and candour secured to him the public confidence. When the office of Chief Justice became vacant by the lamented death of Mr. Chief Justice Sewall, all eyes were turned towards him as the successor. His appointment gave universal satisfaction. And yet, if he had died at that period, half of his real merits would have remained unknown. His ambition was now roused to new exertions by the responsibility of the station ; his mind assumed a new vigour ; his industry quickened into superior watchfulness ; and he expanded, so to say, to the full reach of his official duties. It was a critical moment in the progress of our jurisprudence. We wanted a cautious, but liberal mind, to aid the new growth of principles, to enlarge the old rules, to infuse a vital equity into the system as it was expanding before us. We wanted a mind to do in some good degree what Lord Mansfield had done in England, to breathe into our common law an energy suited to the wants, the commercial interests and the enterprise of the age. We wanted a mind, which, with sufficient knowledge of the old law, was yet not a slave to its forms ; which was bold enough to invigorate it with new principles, not from the desire of innovation, but the love of improvement. We wanted sobriety of judgment ; but at the same time a free spirit, which should move over the still depths of our Law, and animate the whole mass. Such a man was Mr. Chief Justice Parker. And whoever in this age, or in any future age, shall critically examine the decisions of the Supreme Court during the sixteen years, in which he presided over it, will readily acknowledge the truth of these remarks. There was in his mind an original, intrinsic equity, a clear perception of abstract right and justice, and of the best mode of adapting it to the exigences of the case. He felt, as Lord Ellenborough before him had felt, that the rules, not of evidence merely, but of all substantial law, must widen with the wants of society ; that they must have flexibility, as well as strength ; that they must accomplish the ends of justice, and not bury it beneath the pressure of their own weight. There is in this respect much, very much to admire, and, if it were possible in our reverence for the dead, to envy, in his judicial career. Few men have ever excelled him

in the readiness of grasping a cause, of developing its merits, or of searching out its defects. He may have had less juridical learning than some men; but no man more thoroughly mastered all that was before him, or expounded with more felicity the reasons even of technical doctrines. He had an almost intuitive perception of the real principle pervading a whole class of cases, and would thread it through all their mazes with marvellous ability. His written opinions are full of sagacity, and juridical acuteness, at the same time that they possess a singular simplicity and ease. He rarely fails to convince, even when he questions what seems justified by authority. His judicial style is a fine model. It is equally remarkable for propriety of language, order of arrangement, neat and striking turns of expression, and a lucid current of reasoning, which flows on to the conclusion with a silent but almost irresistible force. In his more studied efforts, in some of those great causes, in which the whole powers of the human intellect are tasked and measured, he was always found equal to the occasion. There are not a few of his opinions on some of these intricate subjects, which would bear a close rivalry with the best in Westminster Hall in our own times. There are some, which any Judge might be proud to number among those destined to secure his own immortality.

But we must stop. The time for mourning over such a loss cannot soon pass away. We have lost a great magistrate, and an excellent citizen. Vain is the voice of sorrow, and vainer still the voice of eulogy. They cannot recall the past. His place cannot be easily supplied; for it is difficult to combine so many valuable qualities in a single character. To sum him up in one sentence, we may say, that, as a Judge, he was eminent for sagacity, acuteness, wisdom, impartiality and dignity; as a citizen for public spirit, and elevated consistency of conduct; as a man for generosity, gentleness, and moral purity. His fame must rest where it is fit it should; upon the printed Reports of his own decisions. These will go down to future ages; and though perhaps beyond the circle of the profession they may not attract much general observation (for the misfortune of the profession is, that great Judges and great Lawyers cannot enjoy a wide-spread popular favour) they will yet be read and honored by the jurists of succeeding times with undiminished reverence, when those of us, who have known and loved him, shall be mingled with the dust, that now gathers round his remains. They will often recal to the classical reader the beautiful eulogy of Cicero upon a great character of antiquity, so applicable to his. *Erat in verborum splendore elegans, compositione aptus, facultate copiosus; eaque erat cum summo ingenio, tum exercitationibus maximis consecutus; rem complectebatur memoriter, dividebat acute, nec praetermittebat fere quidquam, quod esset in causâ, aut ad confirmandum aut ad refellendum.*

Judge Parker's family are understood to have been settled, at an early period, on Parker's Island, in Maine. His father, Daniel, a native of Charlestown, married Margaret Jarvis of this city, and had many children. Two of them, daughters, survive; one, mother of Lieut. Colonel Eustis, of the army; the other, unmarried.

Either before Judge Parker was matriculated at College, or soon after, his father, finding himself unable to meet the expenses of his education there, proposed to apprentice him to the druggist's business with the late Dr. Ephraim Eliot. This fact coming through Rev. Dr. Eliot to the knowledge of some opulent gentlemen, who were acquainted with the promise which he had exhibited at school, they interfered on the day of his entrance on his new occupation, and made arrangements for the original intention to be pursued. The circumstance deserves to be here recorded, as illustrative of the state of feeling, long ago, and still, existing in our leading citizens, in relation to our publick schools, and to the claims of those who there manifest the elements of a capacity to "do the state some service." Examples of this kind are so frequent, that it can scarcely be said to be in the course of things with us, for a boy, who, at these institutions, develops uncommon talent, to lose, for want of pecuniary resources, the advantages of the best education which the country affords. Instances, among which what is here noticed is undoubtedly a most prominent one, of the blessing of providence on such a judicious publick spirit, are what have aided hitherto to keep it alive. As long as it continues the honourable characteristick which it is, of the habits of our community, may it continue to be so rewarded! Such services as this publication commemorates, and the good sense and feeling which, in the way now mentioned, have been instrumental in causing them to be rendered, each do a noble part in the promotion of the common good, and are worthy to be called to mind together.

The class of 1786, of which the subject of this notice was a leading scholar, has been one of the most distinguished in the annals of the University. Among other names well known to the publick, we find those of Timothy Bigelow, many years Speaker of the House of Representatives of Massachusetts, Alden Bradford, lately Secretary of the Commonwealth, Dr. Harris, late President of Columbia College, N. Y., John Lowell, and Champlin and Thompson, U. S. Senators for Rhode Island and New Hampshire.

While a Trustee of Bowdoin College, Judge Parker, in addition to the usual duties of the place, devoted much time to the sale of lands granted by the General Court for the endowment of that institution, and to other arrangements for the benefit of its finances; and his exertions at that period are understood to have been of the first importance, in laying a foundation for its now extended usefulness and reputation.

Between his sense of duty to his family and to the publick, his accept-

ance of the office of Judge, when in the receipt of a much larger income at the bar, was a subject of very anxious deliberation to him, and his friends represent him as never having appeared to them otherwise than habitually cheerful and happy, except at this juncture. It was a step much urged by Judges Sedgwick and Sewall, and by the leading jurists of Boston and of other parts of the State. Subsequently he had almost made up his mind, at one time, to resign the office, and there is a very interesting letter of Judge Parsons, dissuading him on the ground of the worth of his services to the science and the community, and the obligation upon men like him to postpone private considerations to the publick benefit. The writer knew the mind which he was addressing.

In the Massachusetts Convention of 1820, Judge Parker frequently took a part in debates in Committee of the Whole. His speeches, on the constitution of the University, of the Senate, and the Executive Council, on the third article, providing for the maintenance of religious worship, and on other important subjects, are referred to in the Index to the Journal of that Convention. The beautiful tribute of the Delegates to John Adams, (Journal, p. 9) who was first chosen their President, but declined that trust, was from his pen.

His critical taste was put in exercise for the preparation of the volume of posthumous sermons, by his friend Mr. Buckminster, which has enjoyed such high estimation, at home and abroad. Judge Parker and the late Hon. Samuel Dexter, with the assistance of Mr. George (now Professor) Ticknor, made in the first place a large selection from the manuscripts, from which were afterwards chosen by the Rev. Messrs. Channing and Thacher those which were given to the press.

Judge Parker, after waking early, as was his habit, on the morning of July 25th, conversed some minutes, apparently in his usual health. Being observed, after a little time, to articulate less distinctly, he said that he felt a head-ache, but should be better after rising. On attempting to rise, he found his limbs partially paralysed, but was still able to maintain some conversation. On the arrival of Dr. Warren, in twenty minutes after he was seized, he manifested his satisfaction, but did not afterwards speak. Copious bleeding in one arm, and other strong remedies were resorted to, without the slightest good effect. Dr. Warren remained with him three hours, and again attended in consultation with Dr. Bigelow, but it was plain to the medical gentlemen that the case had been a hopeless one from the first.

While resident at Castine, Judge Parker was married to Rebecca Hall, sister of the present Judge of Probate for Suffolk. He was bereaved of three children; two sons in early childhood; and, six years ago, a daughter, Margaret Jarvis, whose loss was a keen affliction. Five survive; Ed-

ward William; Ann Brooks, married to Henry Wainwright; Charles Albert, clerk of the Court of Common Pleas for Suffolk; John Brooks; and Emily.

In the 2d volume of Massachusetts Reports is a list of Judges of the Supreme Court since William and Mary's charter. It appears that four, viz. Samuel Sewall from 1695 to 1726; Benjamin Lynde, 1712—45; Paul Dudley, 1718—50; and Benjamin Lynde, 1745—1771, have been Judges a longer time; but no Chief Justice has had so long a term of service.

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