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GEORGE DAVIS

BY

H. G. CONNOR



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GEORGE DAVIS

By

H. G. CONNOR

Judge of the United States Court,
Eastern District of North Carolina

DELIVERED

AT THE

Unveiling of a Statue of George Davis at Wilmington, N. C.,
April 20, 1911, by the Cape Fear Chapter, No. 3,
United Daughters of the Confederacy

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Opening Prayer

BY THE RIGHT REVEREND ROBERT STRANGE, BISHOP OF EAST
CAROLINA.

O God, our Father, with whom do live in joy and felicity the spirits of good men made perfect, bless us here today as we gather together to commemorate the virtues of one of Thy choice servants.

O Lord God, who doth move forward and upward all mankind by selecting and endowing great and good men to be their teachers and examples, we pray Thee deepen and continue the influence of him whom we honor; may his teachings sink deep into our hearts, and may his character be ever a guide and stimulus to our growing and aspiring youth.

O Lord, from whom all good things do come, bless in this good work, bless in home and daily life these sweet women, who, according to their custom, are our leaders in the high, the true, and the unselfish.

All these things we ask, O Father, for Jesus Christ's sake. Amen.

GEORGE DAVIS

"North Carolina never bred a finer gentleman, nor one who more completely commanded the love and reverence of all who knew him. Frank and loyal in all things, he was singular in his love of truth, and in his lofty scorn of every thing dishonorable or mean."

"He was a man of eminent abilities, of varied knowledge, of sincere piety, of unstained virtue, of great learning and cultivated taste."

Thus spoke George Davis of Governor Samuel Ashe, whom "he well remembered as the last of the Revolutionary patriots of that name," and of Edward Moseley, of whose public services and private character he had made a careful study. These just and generous tributes are singularly descriptive of the noble gentleman who uttered them. No more accurate portrayal of his character can be drawn. Only noble souls, large minds and generous hearts may interpret those of like mould. It is because they see illustrated in the life, the conversation and example of this man, a heroic past, an abiding devotion to public and private virtue, and an inspiration to the men of the future, that the United Daughters of the Confederacy of the Cape Fear determined to place in the city which he loved so much, and to which he rendered such high service, an enduring memorial of the form and features of their most eminent man and honored citizen. A people who correctly interpret character; who correctly place, both in proportion and in adjustment, the essential virtues of manhood; who distinguish those personal qualities which abide, from those which pass with time and occasion; who, in their judgment of men and their conduct, separate essentials from non-essentials; who put a right estimate upon personal courage, both moral and physical, love of truth, and loyalty to noble ideals; who have faith in God, and reverence for sacred things; who hold to these truths as "first principles," and practice these virtues as "primary duties," not to be doubted or debated, will honor while living, and hold in sacred memory, when dead, those who, in their lives, represent their past, illustrate their present, and inspire their future. In the ceremonies of this day we read loyalty to the past and

visions of the future. Others would bring to this occasion larger capacity, but to none would I yield, in reverence for the virtues, admiration for the learning, gratitude for the example and sacred regard for the memory of him whom, in honoring, we do the more honor ourselves.

The story of the early settlement, the trials and struggles of the men who came to the lower Cape Fear, has been told with loving loyalty by Mr. Davis who, with his accustomed modesty, disclaimed the office of the historian, but "assumed the humbler, still pious duty of connecting recorded facts, of perpetuating traditions and plucking the mosses which had gathered on their tombs." The names of those who, as he tells us, "were gentlemen of birth and education, bringing with them ample fortunes, gentle manners and cultivated minds, most of them united by ties of blood, and all by those of friendship, came as one household, sufficient to themselves, and reared their family altars in love and peace," are written on the brightest pages of the history of North Carolina. Their social qualities were as those of the English, and their politics of the Whigs of the Revolution of 1688. They were familiar with the battle of their British ancestors for Constitutional government, and well understood the limitations placed upon the royal prerogative by the Bill of Rights. They knew full well that their rights were secured to them by Royal Charter. So long as these chartered rights were respected, they were contented in their new homes. They were not given to abstract speculations, either in government or religion. They were essentially Whigs of the pattern of Chatham, Burke and Camden. It was for this reason that they resisted the enforcement of the Stamp Act and went to war in defense of a political principle involving their constitutional rights. As said by the scholarly Alderman, the eulogist of Hooper and his associates, "The American Revolution was not a strife between countries and people, but between parties and principles for the priceless treasure, the bright inheritance of English freedom. * * * It was the triumphant culmination of the world-wide fight against prerogative. The British were fighting the battles of the forum to acquire from crowned divinity the liberty they had lost; the Americans were shedding their blood to keep the liberty they had always known.

The spirit which resisted taxation without representation in America, was the same which resisted loans, benevolences and ship money in England." They believed, with Chatham, that "It was better for them to perish in a glorious contention for their rights, than to purchase a slavish tranquillity at the expense of a single iota of the Constitution."

No man knew better, few so well, as did Mr. Davis, and none in such noble, but simple eloquence told with faithful accuracy, in glowing language, the story of the part borne by the men of the lower Cape Fear in the struggle for independence. Any reflection upon their patriotism, or their motives, aroused his indignation, bringing him to their defense. He was of their blood and that which pertained to their honor was personal to him. As we read his well-rounded sentences, his noble, inspiring story of these men, their devotion to liberty, their resistance to its invasion, their lofty language maintained by their brave deeds, one feels that he lives in those stirring times. It was as a boy from hearing "the oft told story" and, in later life, the enthusiastic, yet careful, student of the "early times and men of the lower Cape Fear," that he imbibed their spirit as he inherited their blood. He thus concludes his celebrated Chapel Hill Address:

"My theme, though local, has been purely North Carolinian; and its purpose was, by some striking examples, not solitary in their greatness, but only shining pages of a luminous history, to show you how rich we are in all that makes the just and honorable pride of a people. The moral strength of a true and loyal gentleman has no ingredient so powerful as an ever-present pride of personal character. The man who lacks it may move without discredit on the plane of life's ordinary level; but he can never ascend to mountain tops nor feast his soul with the glorious contemplation of great temptations nobly fought and conquered. The undefinable spirit of patriotism has no element so powerful as a high and justifiable State pride."

Here we find the impulse and the spirit which guided him through his long, honorable and useful life.

"Mr. Davis was entirely a product of Cape Fear influence. For a century his people had been among the first in social standing in that part of North Carolina." Jehu Davis was one of four brothers, coming from England to Massachusetts, early in the eighteenth century, who went to South Carolina,

settling in St. James Parish, the famous Goose Creek section, near Charleston. After some years, the brothers moved to the Cape Fear, together with the tide of settlers who came in with the Moores, about the year 1725. Jehu Davis married Jane Assup, an Irish lady, and among other children, left Thomas, who married Mary Moore, daughter of George Moore (by his first wife, Mary Ashe, a sister of Governor Samnel Ashe and General John Ashe), who was the son of old "King Roger" Moore and grandson of Governor James Moore, of South Carolina. Their son, Thomas Frederick Davis, married Sarah Isabella Eagles, daughter of Joseph Eagles, Sr., and his wife, Sarah Read (sister of Colonel James Read, of Revolutionary fame). Of this marriage was born Thomas Frederick Davis; and, March 1, 1820, on his father's plantation at Porter's Neck, then New Hanover, now Pender County, George Davis. Of the other brothers who came from South Carolina, John married the daughter of John Moore, brother of old "King Roger" and Maurice Moore, and had issue two daughters, one of whom, Justina, married, first, Governor Arthur Dobbs and, upon his death, Governor Abner Nash. Roger Davis married Elizabeth, daughter of Nathaniel Moore, another brother of old "King Roger" and Maurice Moore. The other brother, William, died unmarried. Mr. Davis was closely related to the Lillingtons, the Ashes, the Joneses, the Swanns, and many others of the old families of the Cape Fear.

George Davis was sent, when eight years old, to Pittsboro to attend the school of Mr. W. H. Hardin, after which he returned to Wilmington, where, upon the invitation of Governor Dudley, he was prepared for college by Mr. M. A. Curtis (afterwards Rev. Dr. Curtis, of Hillsboro), who was tutor in the Governor's family. He entered the University, in the fourteenth year of his age, being the youngest member, and graduated, when eighteen, receiving the highest honors of his class at the Commencement of 1838. Immediately upon his graduation, Mr. Davis entered upon the study of law in the office and under the direction of his brother, Mr. Thomas F. Davis, who later entered the ministry of the Episcopal Church, and was from 1853 until his death the Bishop of the Diocese of South Carolina. Completing his preparatory studies he was, upon

examination by the Supreme Court, composed of Rutlin, Daniel and Gaston, when twenty years of age, "found to possess such competent knowledge of the law as to entitle him to admission" to the Bar. He received his license to practice in the Court of Pleas and Quarter Sessions and, one year thereafter, as was the rule of the Supreme Court at that time, in the Superior Court, and was duly admitted to the Bar of New Hanover County.

Having determined to make of himself a lawyer, in the largest and best sense of the word, Mr. Davis devoted his time and attention to the study and practice of his profession. He well understood the truth of the oft repeated adage that "the law is a jealous mistress," and resisting the temptation which has lured so many young men of the profession into failure, he eschewed practical politics. He found recreation, cultivated his taste, broadened his views and made of himself a thoroughly furnished lawyer, by a study of the masters in the field of polite literature, history and other sources of useful knowledge. We may well surmise that, in his young manhood, he read and adopted the counsel of one of the greatest lawyers, most learned Judges and best of men, whom North Carolina has given to the Bar and Bench, found in a letter to one who had been his student, and who became the leader of the Wilmington Bar. In 1808 Judge William Gaston wrote William B. Meares, when "he was about to bid a final adieu to his office," that the qualifications which combine to make the illustrious lawyer are "an intimate and thorough acquaintance with legal science, a facility in expressing his thoughts clearly, correctly and agreeably, in so arranging and combining them in argument as to illustrate, convince, persuade; unremitting attention to the interests of his clients, incorruptible integrity." Mr. Davis came to the study and practice of the law "resolved to master it, not to play in its shallows, but to sound its depths," and right loyally did he work up to the standard and gather the fruits which are the reward of such labor.

The Bar of New Hanover, at the time of Mr. Davis's admission, and during the years preceding the Civil War, was composed of William B. Meares, Daniel B. Baker, H. L. Holmes, Thomas C. Miller, Griffith J. McRee, Eli W. Hall, Colonel

Robert Strange, Mauger London, Judge Oliver P. Meares, Adam Empie, Hon. William S. Ashe, William A. Wright and Joshua G. Wright. That, early in his career, he shared, and always retained, with these gentlemen, the honors and practice of his profession, is surely sufficient evidence of his thorough preparation and learning in the law, and success in its practice.

Mr. Davis was by temperament, association and conviction a Constitutional Whig; such was his logical, political alignment. While he sought no position nor preferment, he was a student of politics and a close observer of the trend of events in the State and country. As he entered into manhood's estate, the Whig party in North Carolina was pressing the work of Internal Improvements, and its other policies, State and National, under the leadership of John M. Morehead, as Governor, Willie P. Mangum and William A. Graham, as Senators, while the Whig members of the House of Representatives were Kenneth Rayner, Edward Stanly, William H. Washington, Augustine H. Sheppard, Abraham Rencher and Lewis Williams, the last named, who had served continuously from 1815 until 1842, having "received by universal consent the title of the 'Father of the House.'" The Cape Fear District was represented by James J. McKay, who "was of the Macon school of politics." In 1846 he was Chairman of the Committee on Ways and Means and "brought in the celebrated Walker Tariff Bill."

The controversy between the East and the West, the latter demanding that legislative representation be put upon a popular basis, and other amendments to the Constitution adopted by the Convention of 1835, and ratified by the people, followed by the administration of Governor Dudley, the first Governor elected in the State by a popular vote, had given the Whig party a clear field for carrying out the State policies which it had long advocated. In a letter written by Hon. Hugh Waddell and Hon. William A. Graham, asking the advice and assistance of Judge Gaston as "one who in a long life has constantly evinced an anxious and patriotic interest in whatever concerned North Carolina," is outlined the policy of the Whig party. They proposed to deal with the disposition of the surplus revenue of the United States allotted to North Carolina,

improvement of means of internal transportation, (asking whether "this should be given primary attention"), establishing a system of common schools, erection of a penitentiary and lunatic asylum and amendments to the revenue system. Difference of opinion upon several of these subjects became the line of cleavage for many years between the Whig and Democratic parties in this State. It is of interest, in this connection, to recall the proposed system of railroads affecting the Cape Fear section and the State's relation to them.

Judge Gaston, in a letter to a Northern gentleman, names, first, the Wilmington and Weldon (chartered as the Wilmington and Raleigh Railroad), the construction of which, he says, "has begun and is proceeding with great spirit from Wilmington on the Cape Fear River to the neighborhood of Halifax on the Roanoke, where it will unite with two roads which have been built without any assistance from the State—the one leading to Petersburg and the other to Norfolk. The Fayetteville and Western Railroad is to extend from the town of Fayetteville to some point on the Yadkin River above the Narrows (viz. above the spot where the Yadkin and Uwharrie unite in Montgomery County and take the name of the Pee Dee), thence by two branches, the one leading directly to the town of Wilkesborough, the other across the Catawba River, so as to intersect the Charleston and Cincinnati Railroad at some eligible point. This point will be somewhere in Rutherford County, as the Charleston and Cincinnati Railroad is to enter this State along the valley of the Broad River in that county, and is to cross the Blue Ridge by one of the head branches of that river into Buncombe. The North Carolina Central Railroad is designed to run from the neighborhood of Beaufort, an excellent roadstead and harbor about forty miles to the south of New Bern, thence by, or near, that town westwardly to Fayetteville." He describes other roads, not so intimately affecting Wilmington, either projected or under construction. The writer says that the State proposes, "under certain conditions, to subscribe two-fifths of the capital stock and have a proportionate representation on the Board of Directors; the State has not reserved to herself the right of operating these works, but has contented herself with fixing, in the first instance, maximum rates of toll

to be charged, and providing for a diminution of these rates, if they should yield a net profit exceeding fifteen per cent. There is not a uniformity in the rates which they are authorized to charge. The maximum is twelve cents per ton on transporting commodities per mile and six cents for transporting passengers." Events, conditions and forces, which constitute the story of the State's policy of Internal Improvement wrought different results, and produced different conditions, in the State, from those expected. The study of the map of North Carolina, in the light of proposed and rejected railroad lines, and their effect upon her development, is of intense interest. More than half a century elapsed before Fayetteville, "the head of navigation of the Cape Fear," was connected by rail with the Yadkin Valley, and, Wilmington, "the chief seaport of the State," was given the trade facilities contemplated by the fathers, and then, under conditions far removed from their plans and purposes. Political, commercial, and other influences have affected the currents of trade and transportation. The necessities of war disturbed "the system" and carried to our neighboring State the currents of commerce which were intended for North Carolina ports. In an exceedingly able and interesting argument made by Mr. Davis before me, while Superior Court Judge, involving the construction of several sections of the original charter of the Wilmington and Weldon Railroad, after telling in a most interesting way the story of the men and means by which the construction of the road was completed, he told of the great gathering of the people at Wilmington to celebrate the event, saying: "Now that the great work was accomplished, the people came and mingled the waters of the Roanoke with the waters of the Cape Fear, and all the world was here." Times and tastes have so greatly changed that it were as well not to follow the eloquent lawyer further in respect to the manner in which the hospitality and "good cheer" of the Cape Fear were extended to her visitors, with more or less of its mellowing effects.

At the Whig Convention of 1848, without his knowledge, Mr. Davis came within one vote of receiving the nomination for Governor. In 1852 when Mr. Clay, the great leader and idol of the Whigs of the country, passed away, he was called upon

to deliver a eulogy in the city of Wilmington. As this is the first of a series of notable orations delivered by him, we have a fair idea of his style as a public speaker, at the age of thirty-two years, and of his enthusiastic admiration for the great Whig statesman. Describing the conditions attending Clay's birth, and the influence under which his early days were spent, he says:

"Seventy-five years ago, in an obscure part of Hanover County in Virginia, a poor child was given to the world. Ennobled by no long line of ancestors, no pomp of heraldry, no glare of wealth, no glories of birth or state surrounded and dignified the event. In his own language, long years afterwards, 'the only inheritance to which he was entitled were infancy, ignorance and indigence.' But mighty elements were at work about him. Concord, Lexington and Bunker Hill had just spoken. The Immortal Declaration of the Thirteen United Colonies had flung defiance in the teeth of a tyrant. The whole continent was in a blaze of enthusiasm, and the very atmosphere of his birth-place was filled with the genius, the eloquence and the patriotism of Patrick Henry. I know not what mysterious influence the time and circumstances of their nativity may have upon the destinies and characters of men. Certainly none could be more propitious than these to form a patriot."

When, in 1850, the last call came to Clay and the last compromise between the sections was to be made, Mr. Davis thus describes the occasion and the appearance of the great Pacificator:

"From the peaceful shades of loved and distant Ashland, from the bosom of his home and wife, from the solaces that weary years had made so dear, crowned by immortal flowers, wreathed by a people's love, he came. Again the tempest rages and the lightnings flash and the thunders roll and the thick darkness is over the land. And again serene and high the patriot stands amid the storm, its conqueror still. But oh, how changed! Age and disease have done their work. The stately form is bent by the snows of many winters, the bright eye is dimmed, the strong hand trembles, but the high heart, and the stately soul, and the mighty will, and the unflinching nerve, and the patriotic love, are there. His country is in danger. In sorrowing tones she calls upon his name and he bounds to her rescue like the war horse with the trumpet in his ear. Again he breasts the storm and again the tall form is erect and the eye flashes and the nerves are strong and the soul finds utterance and the burning eloquence pours. It is the last triumph! The storm

passes—but the tall oak lies shivered and leafless in the dust. Peace has another victory, but many such were worth a nation's birthright."

As the sectional quarrel over slavery increased in intensity, the radical element of both sections gained control and, as said by Mr. Nash in his admirable address at the unveiling of the bust of Governor Graham: "It became daily more and more evident that Mr. Seward's irrepressible conflict was not an oratorical exaggeration, but a stern reality." The Southern Whigs saw their party dissolve and its members absorbed by the extreme wings of the Democratic and Republican parties, each of which were of necessity becoming daily more sectional.

"There is something very admirable in the character, and pathetic in the history, of the Old Line Whigs of the South. In politics they were conservative, but in all that concerned the industrial interests of the country they were progressive. They were as incorruptible as a Roman Senator in the palmiest days of Rome. Their public life was as clean and as immaculate and as far above suspicion as Cæsar would have had his wife. To them patriotism was more than a sentiment. It was almost a passion. * * * Patriotism to them assumed a twofold aspect—of love for their native State and love for the Union. * * * It was the day of the extremist. Events moved too rapidly for the moderates. They could not stem the tide—they must move with it, or be overwhelmed. It was a choice between loves and, in their agony of soul, they chose the greater—their homes, their firesides and their neighbors and, ever after, their faces were to the foe."

Of this class of Southern Whigs was Mr. Davis. The only public expression which we find from him, after the election of Mr. Lincoln, is in his participation, December 13, 1860, "in the largest meeting ever held in the city," composed of "all persons who desire to preserve the Union of the States as long as it is consistent with our constitutional rights." The record states that, at this meeting, Mr. Davis was called upon and that "he responded, as he always does, most eloquently and well." Resolutions were unanimously adopted declaring that the Union of the States, when preserved in its fairness and equality, by a just observance of all the guarantees of the Constitution, was an inestimable blessing and the best form of government the world has ever seen; that it was, therefore, the high and solemn

duty, incumbent upon every citizen, to exhaust every effort for its preservation, consistent with our safety and honor." They further declared that, while recognizing the present state of public sentiment to be "in the highest degree threatening and dangerous," they were not without hope "that prudence, moderation and patriotism would find a remedy in the Union, and therefore they were opposed to immediate separation on the part of North Carolina." They recommended "that a conference of the Southern States be held, and that a Convention of the people of the State be called." Mr. Davis was too loyal a man to have joined with his neighbors in the unanimous adoption of these resolutions and spoken to them "eloquently and well" unless they had expressed his conviction in respect to the duty he owed to his State and the Union. He was, as he said of his kinsmen of the Revolutionary time, "frank and loyal in all things."

The people of North Carolina, in February, 1861, rejected a proposition to call a Convention, and, at the same time, elected a majority of Union men as delegates in the event of a Convention's being called. The Legislature of Virginia invited the other States to join with her in a Congress to be held in Washington for the purpose of making an effort to adopt such measures as would secure to all of the States their Constitutional rights in the Union. To this Congress, North Carolina sent Chief Justice Thomas Rutlin, Governor John M. Morehead, General Daniel M. Barringer, Governor David S. Reid and Mr. George Davis. The Congress was composed of one hundred and twenty-three delegates, representing twenty-one States. Ex-President John Tyler presided over its deliberations. Six of the Southern States had, at that time, passed ordinances of secession. Mr. Buchanan says of the Congress: "A bare inspection of the list will convince all inquirers of the respectability and just influence of its members. Among them were many venerable and distinguished citizens from the border States. Earnestly intent upon restoring and saving the Union, their great object was to prevail upon their associates from the North to unite with them in such recommendations to Congress, as would prevent their own States from seceding and enable them to bring back the Cotton States which had seceded."

The Congress was in session three weeks, adjourning without accomplishing the patriotic purpose for which it was called. The causes of this failure, and the responsibility for it, are among the unsettled controversies which grew out of the conditions preceding the Civil War.

Mr. Davis returned to his home and, upon the invitation of a large number of citizens of Wilmington, addressed the people at the Thalian Hall. The *Wilmington Journal* of March 14, 1861, says: "Although the notice was very brief the hall was densely crowded by an eager and attentive audience." Mr. Davis said that "he shrank from no criticism of his course, but indeed invited and sought for the most rigid examination. He had endeavored to discharge the duties of the trust reposed in him faithfully, manfully and conscientiously and, whatever might be thought of his policy, he felt that he had a right to demand the highest respect for the motives which actuated him in pursuing that policy." He said, "that he had gone to the Peace Congress to exhaust every honorable means to obtain a fair, an honorable and a final settlement of existing difficulties. He had done so to the best of his abilities, and had been unsuccessful, for he could never accept the plan adopted, as consistent with the right, the interest or the dignity of North Carolina." The thanks of the people were tendered Mr. Davis for the able, patriotic manner in which he had discharged the duties of his trust.

From the adjournment of the Peace Congress until the Proclamation by Mr. Lincoln, April 15, 1861, calling upon the Governors of the several States for troops to coerce the seceding States, there was much difference of opinion among the people of North Carolina as to the course which the State should pursue. A number of strong men were endeavoring to prevent the calling of a Convention by the Legislature. Among the Union men of North Carolina none possessed more influence with the people, or were more loyal in their devotion to the Constitution and the Union than Hon. John A. Gilmer, Governor Graham and Zebulon B. Vance, then a representative in Congress. Mr. Gilmer had long represented the Greensboro District in Congress and was intimate with Mr. Seward. In a correspondence with Seward, begun March 7th and continued to April 21,

1861, he earnestly urged that no action be taken by the administration calculated to precipitate the withdrawal of Virginia and North Carolina. On April 21st, he writes that he had been away from home attending the courts addressing "crowds of Union men," and that "yesterday evening, on my return home, I saw, for the first time, this Proclamation [Lincoln's call for troops]. Soon thereafter I heard that a volunteer company in my own town, among whom was my only son, had been called for by the Governor and they have gone to Fort Macon. I came home with a sad heart. I found my own friends greatly excited. I was too full to address them. I could not rest that night. If I had supposed that the administration would not pursue the policy (or something like it) which I had urged on you, I would have returned to Washington and have gone daily on my knees to it in behalf of my policy, and to avert that shedding of human blood which now seems inevitable. * * * All hope is now extinguished." (Baneroff's Seward, Appendix.) Judge George Howard, who was with Mr. Gilmer while attending his courts and saw him at his home on the day upon which this letter was written, writes that "with deep emotion" he used the language quoted, concluding "we are all one now." Mr. Gilmer was a member of the Convention of 1861 and voted for the Ordinance of Secession. He also became a member of the Confederate Congress, and his only son came out of the war with a record for gallantry, and a wound which made him a cripple throughout his life. Governor Graham, after a loyal effort to prevent the withdrawal of the State "thenceforward saw clearly that there was no other alternative but Civil War, and that North Carolina must take her part with the other Southern States." He was a member of the Convention, voted for the ordinance of secession, and became a Confederate States Senator. He gave five of his seven sons (all who were old enough to bear arms) to the cause of North Carolina in the Civil War. Governor Vance, who then represented the Asheville District in Congress, in an address delivered in Boston, after the war, describing the effects of the Proclamation upon himself, said: "The Union men had every prop knocked from under them, and, by stress of their own position, were plunged into the secession movement. For myself, I will say, I was can-

vassing for the Union with all my strength. I was addressing a large and excited crowd, many of whom were armed and literally had my arm extended upward, pleading for peace and the Union of our fathers when the telegraphic news was announced of the firing on Sumter and the President's call for seventy-five thousand volunteers. When my hand came down from that impassioned gesticulation it fell slowly and sadly by the side of a secessionist. I immediately, with altered voice and manner, called upon the assembled multitude to volunteer, not to fight against, but for South Carolina. I said, "if war is to come I prefer to be with my own people." He went into the army and later became the War Governor of the State. These men are types and representatives of thousands of others in North Carolina at that time.

Mr. Davis was convinced by his association with the Northern delegates of the "Peace Congress" that war was inevitable, and was prepared for it. The Legislature called a convention of the people to which delegates representing the several shades of opinion were elected. However they may have differed in the past in regard to questions of constitutional construction, reserved rights, State sovereignty, or the institution of slavery, they were unanimous in the determination that North Carolina would furnish no troops to coerce a sovereign State or to invade its territory. Governor Ellis's response to the call for troops¹ voiced the sentiment of a large majority of the people of North Carolina, without reference to their opinion regarding the wisdom of the action of South Carolina and the other seceding States. The attitude of North Carolina was strikingly similar to that of Virginia, and of that State Mr. Henderson, the English writer, said:

"So far, she had given no overt sign of sympathy with the Revolution, but she was now called upon to furnish her quota of regiments for the Federal army. To have acceded to the call would have been to abjure the most cherished principles of her political existence. Neutrality was impossible. She was bound to furnish her tale of troops and thus belie her principles; or secede at once, and reject, with a clear conscience, the President's mandate. If the morality of secession may be questioned; if South Carolina acted with undue

¹"I can be no party to this wicked violation of the laws of the country, and to this war upon the liberties of a free people. You can get no troops from North Carolina."

haste, and without sufficient provocation, if certain of the Southern politicians desired emancipation for themselves, that they might continue to enslave others, it can hardly be denied that the action of Virginia was not only fully justified but beyond suspicion."

Mr. Rhodes, the latest and most impartial historian, says that, while in these States men differed widely in regard to the right or wisdom of secession, "all denied the right or the feasibility of coercion." Mr. Munford, in his carefully prepared and well-sustained book on the "Attitude of Virginia Towards Slavery and Secession," after a thorough examination of, and full quotation from the opinions of men, both North and South, thus states the conclusion of the matter:

"Whether regarded as a constitutional right or a revolutionary right, or both combined, the people of Virginia held that the Cotton States having deliberately, and by almost unexampled unanimity, decided to dissolve the political relations which formerly existed between them and their sister commonwealths, there was, with respect to the legal and ethical character of this action, no competent court of review this side of the judgment seat of Heaven. The wisdom of their secession might be denied, the morality of their action might be questioned, the disastrous consequences to the Union might be admitted, but still, no right existed in any body of men to invade their country and defeat their aspirations by the sword."

Mr. Adams says of Virginia: "So, logically and consistently she took the position that, though it might be unwise for a State to secede, a State which did secede could not and should not be coerced."²

This is equally true of North Carolina. Men have called this illogical. Some use stronger language, but whether tested by the hard and fast rules of constitutional construction or tried to a conclusion before "the jury time empanels," it is the impregnable rock upon which, eliminating all else, the men of North Carolina may, with absolute confidence, rest their cause. "To call it rebellion is to speak ignorantly. To call it treason is to add viciousness to stupidity." Speaking of Lincoln's attitude to the South in 1861, Goldwin Smith says: "If he saw, he never showed that he saw, the fundamental character of the situation with which he had to deal. He always wrote as if he took secession to be rebellion." I confess that, perhaps from

² Lee at Appomattox, 403.

heredity, the word "rebellion" does not offend my ear or disturb my mind. While rebellion is only justifiable as the last resort to secure a "redress of grievances" or to prevent the invasion of undoubted rights, it has done noble service in behalf of both civil and religious liberty. Said Governor Vance, speaking to a Boston audience: "The fair Goddess of Liberty was born of rebellion and was baptized in the blood of rebels. It is the only remedy for wrong under absolute government. In all ages it has been the last hope of freedom." The words "treason" and "traitor" are of vastly different signification and, when applied to a man or a people, should be met in an entirely different spirit. Brave, loyal men are never traitors, nor are they ever guilty of treason to their "ultimate allegiance," and this, as said by Mr. Charles Francis Adams, is the "Crux of the proposition," and this, he also says, "was due to the State which defined and created citizenship." Without discussing the overly debated question of State sovereignty, reserved rights or stopping to inquire whether, in withdrawing from the Union, the State was exercising an inherent sovereign right, or was inaugurating a revolution upon the grounds assigned by the American Colonies in 1776 for their justification, and, altogether eliminating the occasion or the cause of the controversy, it is to me a satisfying reflection that the record shows that North Carolina, with absolute fidelity to the teaching and example of the Revolutionary fathers, and to her constitutional relations to the other States, finally and conclusively rested her course upon her refusal to furnish troops to coerce the action of any other State or to invade its territory. To this position North Carolina was forced by Mr. Lincoln's proclamation. The record shows that, among other causes set forth in the ordinance introduced by Mr. George E. Badger, supported by Mr. Gilmer, Governor Graham, Dr. Kemp P. Battle and others, whose loyalty to the Constitution and the Union can not be questioned, was that Mr. Lincoln had called for troops "to march an army into the seceding States with a view to their subjection under an arbitrary and military authority, there being no law of Congress authorizing such calling out of troops and no constitutional right to use them, if called out, for the purposes intended by him." While a majority of the Conven-

tion did not feel called upon to set out the cause of their grievances, they all, with accord, voted for and affixed their names to the Ordinance of Secession May 20, 1861.

Standing here today and looking backward over the events of half a century, and again looking backward over the events of the preceding century of North Carolina history, beginning with the action of the men of the lower Cape Fear, when they declared "that the cause of Boston town was the cause of all," and of the men of Mecklenburg, and through all the years of loyal service to the Union of the States, responding to every constitutional obligation, with absolute loyalty to the present and confidence in the future, it is impossible to see how, without forswearing her past, renouncing her noblest traditions, doing violence to her honor, if she had any regard for her glory, or for her past, or for the ages to come, North Carolina could have done otherwise. If the result had been foreseen with absolute certainty, yet North Carolina must have refused to make war upon Virginia, South Carolina and the other States. Some of the "thirteen" saw their duty and allegiance otherwise, and acted as they saw. New States, some made of territory generously ceded to the Union by Virginia and North Carolina, acknowledged and were loyal to what they conceived to be their "ultimate allegiance." North Carolina has never asked that any more be accorded to her. She can never, in justice to the men of '61, be content with less. Conceding that Mr. Lincoln, in those days, acted in strict accordance with his sense of duty, that he relied upon the counsel of those upon whom it was his official right and duty to rely—conceding all that is claimed for him by those who see infallibility of judgment and singleness of purpose in his every act, yet, in the light of the events of fifty years, one can not fail to understand the force of Goldwin Smith's conclusion that "with all his wisdom and goodness of heart he never took, or at least never showed that he took, a right view of the case with which he had to deal; if he had, perhaps there would have been no war." It profits but little to speculate upon the possibility of what would have been written as the history of this country for the half century since Virginia, on April 17, 1861, and North Carolina, on May 20, 1861, withdrew from the Union; whether it would have been

of a long and bloody war; whether the dark and disgraceful chapter of reconstruction would have had place; whether the Union would have been preserved without violating the clearest constitutional rights; whether slavery would have perished, but it matters very much to us, who hold in our keeping and whose duty it is to hand down, with absolute fidelity to truth, the record made by the men of 1861, their motives and their purposes, that the truth shall be established. It has been of such common fashion and so self-satisfying to those who, as Mr. Sumner said, held "the avenging pen of history," to write as they wish it to be and crystallize into historical fact their own conclusions—it has been regarded as such conclusive evidence of loyalty to the Union to charge the men of Virginia and North Carolina with attempting to "destroy the government," "break up the Union," and of "embruing their hands in their country's blood," that there is, to us, much satisfaction to find that a writer in the *Atlantic Monthly*, "who comes from a well-known family of Massachusetts Abolitionists," says:

"I do not hesitate to say that in the certainly most improbable, but perhaps not impossible, contingency of a future sectional separation in the country, however much I might disapprove of such separation and its cause, I should myself be first and always a loyal son and subject of New England and of Massachusetts. There is a deeper principle involved in this attitude than the mere blind instinct of local patriotism."³

Referring to what he terms "an evolution towards the absorption of power by the National Government," he says: "In one sense the Civil War was a protest on the part of the South against that evolution, and an attempt to restore the constitutional balance as the men of 1787 had planned to make it." It may be conceded that the "general welfare," "manifest destiny," the part to be performed by the American Republic as "a world power," or the "conservation of national forces," demanded "that the protest had to be met; had to be crushed, or worse, incalculable evils would have resulted." If the President and the Northern States had justified their action upon these grounds and, if necessary, maintained it by civil war, many dark and bloody pages in the history of this country

³ *Atlantic Monthly*, December, 1910.

would never have been written. A manly, brave struggle, even to the shedding of blood, may be waged between States and nations with a candid recognition of the sincerity of different convictions of duty and right; it may end in the victory of one and defeat of the other, with mutual honor to both. With such an attitude on the part of the North in 1861 and 1865, there would have been no talk of "treason" and "traitors," no threatened prosecutions for "treason," no long and cruel imprisonment without warrant of law, no reconstruction, no long and dark days of military rule and, what is far worse, corrupt State Governments.

The Convention of North Carolina having ratified the Provisional Constitution of the Confederate States, on the 18th day of June, elected Mr. Davis and W. W. Avery delegates at large to represent the State in the Provisional Congress. The members elected to represent the several districts were W. N. H. Smith, Thomas Ruffin, of Wayne; Thomas D. McDowell, of Bladen; Abraham W. Venable, Gov. John M. Morehead, Richard C. Puryear, Burton Craige, and Allen T. Davidson. Upon the formation of the permanent Constitution George Davis and W. T. Dortch were elected Senators. The proceedings of the Confederate Senate were secret and the debates were never made public. It is, therefore, impossible to reproduce the record or know the manner in which each Senator bore himself in that body, composed of many of the ablest and most experienced statesmen of the Southern States. Such examination as I have been able to make of the Journals shows that Mr. Davis gave his loyal support to the administration. That he made a strong and favorable impression upon his associates and upon the President, is shown by the fact that on the 4th day of January, 1864, he was appointed and confirmed as the Attorney-General of the Confederate States, which position he held until the close of the war. A young republic, struggling to defend its life with a nation of overwhelming power and resources, gave but little opportunity for constructive work in its department of justice. The energies and resources of the President and his Cabinet were absorbed by the demands of the military department. The records of the office of Attorney-General, so far as my investigation goes, are not preserved.

That the President found in his Attorney-General a wise counselor, a loyal minister and a personal friend, and that Mr. Davis found in the President the high qualities which commanded and retained to the end of his life the most exalted regard and devoted friendship, is shown by the correspondence between them when the end came. On April 25, 1865, at Charlotte, N. C., when the time came for separation, the President writes: "It is with sincere regret that I look forward to being separated from you. Your advice has been to me both useful and cheering. The Christian spirit which has ever pervaded your suggestions, not less than the patriotism that has marked your conduct, will be remembered by me when, in future trials, I may have need for both." Referring to the future of the South he says: "It will be sweet to remember how we have suffered together in the time of her sorest trial." Again, on April 26, 1865, he writes his final letter, saying: "Allow me to thank you for the important assistance you have rendered me in the administration of the Government and for the patriotic zeal and acknowledged ability which which you have discharged your trust." When it is recalled that these are the words of a man passing under the shadow of defeat they do great honor both to the President and to his Attorney-General. Mr. Davis, as did other members of the Cabinet, undertook to seek safety from the fury of the storm, which was sweeping over the land, intensified by the murder of Mr. Lincoln, by leaving the country, but was prevented by untoward wind and waves. He was arrested and confined for several months in Fort Hamilton. Nothing being found in his personal or official record as Attorney-General inconsistent with his duty, or with the conduct of honorable civilized war, he was released on parole and returned to his family in Wilmington. As all other citizens who came within the terms of President Johnson's Proclamation, he received executive amnesty.

Mr. Davis had married, on November 17, 1842, Miss Mary A. Polk, daughter of Gen. Thomas G. Polk, of Mecklenburg, and niece of Bishop and General Leonidas Polk. She died September 27, 1863. On May the 9th, 1866, he married Miss Monimia Fairfax, daughter of Dr. Orlando Fairfax, of Richmond, Va. Her mother was Miss Cary, of that city.

He took up the broken threads of his life, as did so many of the finest types of Southern manhood, with the courage becoming such men. Amid the wreck wrought by the war and its results, these men of the South, of all stations and occupations, showed the metal of which they were made; accepting in good faith and with loyal purpose the conclusion of the matter, conscious of having done their duty to their State, they began again as had their forefathers, to "build their family altars in love and peace." Whether they could have done so, if the future had been revealed to them, if they had foreseen how sectional hatred and party necessity were, within two years, to inaugurate a system of tyranny, misrule and corruption in their midst, is one of the unsolved questions left in the wake of the war. Mr. Davis reëntered upon the practice of his profession, finding of his associates of 1861 Mr. Manger London, an excellent lawyer and an admirable gentleman; Mr. William A. Wright, an able, accurate and learned lawyer, a gentleman of the high qualities which have always marked the men of his race and family; Judge Samuel J. Person, who had won distinction at the bar, on the bench, and in the Legislature; Colonel Robert Strange, who worthily illustrated the high qualities and personal charm of a family which has always held high position and performed honorable service to the State, a great lawyer and a noble gentleman, who passed away all too soon for the welfare of the State. Of him Mr. Davis said: "Gentle and kind as he was, he had as much true manhood as I have ever known. He left no enemy. He was held high in the esteem and veneration of his brethren of the bar and his fellow-citizens at large." Another of his early associates was Colonel Alfred Moore Waddell, who bears the name and inherits the qualities of those whom North Carolinians recall with pride. To his learning in the law he adds broad culture, purity and elegance of style and singular grace and address. He was, in the days of reconstruction, called into the service of his people, redeemed the Cape Fear district, and represented it with credit to himself, honor to his State and to the Nation, three terms in the Federal Congress. His contributions to the literature and history of the Cape Fear are of permanent value. At all times he has been in the foremost ranks when the rights of her people

are invaded or their wrongs are to be redressed. Although his long and distinguished service mark the passing of years, his friends and admirers think of him as of their own age and time. May he long go in and out among these people with his gentle manner, his courtly bearing, and uniform consideration for others.

Among the younger members of the bar were Mr. Fred D. Poisson and Mr. Marsden Bellamy, both lawyers of a high order and gentlemen who enjoyed the confidence and respect of the community. They had a large clientage and were successful in their profession. Mr. DeBrutz Cutler, one of the most accurate real estate lawyers and conveyancers of the bar, was a kinsman of Mr. Davis and bore, with honor, the best traditions of the Cape Fear Bar. One of those who, as a young man, came to share in the practice, was Major Charles M. Stedman. He brought with him a record of brilliant achievement at the University and of gallant service in the field. His splendid talents were cultivated for large success in his profession. He became the partner of Mr. William A. Wright, and bore his part in the labors and success of a large and lucrative practice. Removing to Greensboro, he has added to his reputation as a lawyer and won high political honor, giving pleasure to his host of friends. Few men have more personal charm, more loyal devotion of friends or have rendered more single-hearted service to his State. He now represents the Greensboro District in the Federal Congress, a position won after a brilliant canvass, reversing an adverse majority at the last election. A long and constant friendship of never failing loyalty and service on his part, marks our relations for more than a quarter of a century. In my early years at the Bar I met and came to admire the learning, ability and fine personal qualities of two gentlemen who came to this Bar from Sampson County, Colonel William H. and Major Duncan J. DeVane. They both passed away in middle life. Governor Daniel L. Russell was a lawyer of fine mind, strong, vigorous and aggressive in his professional and political life. As such men always do, he struck and received hard blows. He enjoyed for many years a large practice at this Bar, having warm supporters and equally warm opponents. Mr. Eugene S. Martin was one of those who came to

the Bar early after the war. He won by his fine talents, careful and methodical habits of study and practice, as well as by his high personal qualities, a large clientage and a host of warm personal friends, and these, by the same means, he retains with increasing loyalty. In the early eighties, Colonel Duncan K. McRae returned from his wanderings to the home of his young manhood and entered into practice with Mr. Thomas H. Strange, having prior to the war been the partner of his distinguished father, Colonel Robert Strange. Of the younger members of the Bar who knew Mr. Davis and who survive him, it is sufficient to say that they admired his exalted character and profound learning, and recognized in him, as their leader, all of the qualities which have illustrated and sustained the high standards of the Wilmington Bar.

It is difficult for us, in these days of restored nationality, and freedom from outside and hostile interference, to understand the conditions under which the men of the South lived and labored in the years immediately following the Civil War. After two years of promised restoration, based upon the President's policy, they were confronted by new conditions, brought about by the reconstruction plan adopted by the majority of Congress, enforced by military power in a time of peace, and sustained by the Northern people. Never were a people so beset with dangers and difficulties. Did they seek the aid of those whom they knew to be their loyal friends and advisers, in whose wisdom and judgment they had confidence, it was used to their undoing, as evidence, that "they were disloyal to the Government." Did they withdraw themselves from part or participation in the work of restoration, it was imputed to them for "sullen resentment" and as being "unreconstructed," that they "did not love the Union." Strangers and hostile emissaries were sent to "spy out the land" and report to the "authorities at Washington." The only course regarded as "loyal" was to denounce their former leaders as "traitors" and their own conduct as "treason" and declare themselves "repentant," take counsel of petty bureaucratic officers and adventurers, place them in high position, with large salaries and unlimited power to prey upon the people, to accept as the "results of the war" disfranchisement of the whites, and unlimited enfranchisement

of the negroes. Looking backward over the days of reconstruction, military rule and negro supremacy, there comes out of the darkness one clear white light—the patience, the fortitude and loyalty of the men of North Carolina. I have often thought, as have all others who “think upon these things,” as to what would have been the ultimate fate of North Carolina and the other Southern States, their civilization, their manhood, their womanhood, their all, if the great majority of the white men had not, in those days, been loyal to themselves. In all of these years, in that way which seemed to them the highest form of service to their people and their State, such men as Mr. Davis counseled, advised, sustained and stood loyally by those who trusted them.

The question has been asked, and will be again asked, by our children, why the Southern people did not accept the reconstruction measures and ratify the Fourteenth Amendment to the Constitution? This is a large question and can not be answered here, but the fact must always be kept clearly in view that by the third section of that amendment every man who had held office, State or National, and thereafter been loyal to his State, or, in the language of the amendment, engaged in “rebellion,” was prohibited from holding any office, civil or military, “under the United States or under the State,” until two-thirds of each House of Congress removed such disability. It is impossible, at this day, to comprehend the import of this language, or its effect upon the people of the South. It is interesting to read the patriotic words of Governor Worth, in his message to the Legislature of North Carolina, in submitting to them the proposed amendment. After reviewing its provisions he says that he was unable to believe that the deliberate judgment of the people of any State would approve of the innovation to be wrought by the amendment, and as anxious as he was to see the Union restored, there was nothing in the amendment calculated to perpetuate that Union, but that its tendency was rather to perpetuate sectional alienation and estrangement. The committee of the Legislature, to which the amendment was referred, recommending its rejection, said:

“What the people of North Carolina have done, they have done in obedience to her own behests. Must she now punish them for obey-

ing her own commands? If penalties have been incurred, and punishments must be inflicted, is it magnanimous, is it reasonable, nay, is it honorable, to require us to become our own executioners? Must we, as a State, be regarded as unfit for fraternal association with our fellow-citizens of other States until after we shall have sacrificed our manhood, and banished our honor? * * * Like a stricken mother, the State now stands leaning in silent grief over the bloody graves of her slain children. The mementoes of her former glory lie in ruins around her. The majesty of sorrow sits enthroned upon her brow. Proud of her sons who have died for her, she cherishes, in her heart of hearts, the loving children who were ready to die for her and she loves them with a warm affection."

The amendment was rejected by a vote of forty-five to one in the Senate, and by ninety-three to ten in the House.¹ Wilmington was then represented in the Senate by Colonel Edward D. Hall, and in the House by Colonel Robert H. Cowan and Hon. Charles W. McClanmy. When the amendment was ratified Edward Legg and A. H. Galloway in the Senate, Joseph C. Abbott, L. C. Estes, and George W. Price in the House, answered when the county of New Hanover was called. Comment is unnecessary. Much has been done in this ancient city to be forgotten and much to be remembered!

Mr. Davis was advised, and opportunities tendered him, to move to a Northern City and practice his profession where a larger field was open, and larger returns would come from his labors; but with loyal devotion to his people and his home, he declined and, like so many of the Southern leaders, declared that he would never abandon his State or her people. In the campaign of 1868 Mr. Davis, together with Colonel Waddell, addressed the people of Wilmington, advising them against the ratification of the Constitution submitted by the Convention. From an account of the meeting in the city papers we have some conception of the impression made by Mr. Davis upon his audience. "He said, with much feeling, that he had thought never again to have appeared before his friends in a capacity like the present. His voice, he thought, was silent and buried forever in the grave, where constitutional liberty had been interred, and he had resolved, in respect to all public affairs, to live as if he did not live. But no man can outlive his duty,

¹Adoption of the Fourteenth Amendment. Flack 199, 200.

which is imperishable, and, as his friends had thought his voice might be of assistance in the cause, he could not longer remain silent. The speaker then commenced his address, which was delivered with that burning eloquence which is characteristic of him and, having once heard, we can never forget. * * * Manly was his vindication of the rights and principles of the freemen of North Carolina and stinging, bitter and terrible were his sarcasm as expressed in his relation to *saintly, pious, disinterested* (?) radical missionaries who seek to rob us of our sustenance and to degrade us and our posterity. Eloquent was his defense of our honored and noble dead, whom our enemies have endeavored to defile by their touch, and reverently were their sacred memories alluded to. During the whole of the address the audience were, as it were, under a spell, and brought to tears by his pathetic eloquence."

During these years Mr. Davis devoted himself to his practice, but was ever ready to respond to a call for service from his people. In the campaign of 1876 he addressed the people at Wilmington, Goldsboro and Raleigh. Of his speech at Wilmington Dr. Kingsbury, the scholarly editor of the *Morning Star*, wrote: "As a composition the effort of Mr. Davis was very admirable. There was humor, there was sarcasm, there was exquisite irony, there were flashes of wit, there was an outburst of corrosive scorn and indignation that was wonderful, artistic and effective. At times a felicity of illustration would arrest your attention and a grand outburst of high and ennobling eloquence would thrill you with the most pleasurable emotion. The taste was exceedingly fine and from beginning to end the workings of a highly cultured, graceful and elegant mind were manifest."

He had never, at any time, except as Senator and Attorney-General of the Confederacy, shown a willingness to accept office. The time at which the people were to elect a new Chief Justice was approaching and, with one accord, they looked to Mr. Davis as the one, above all others, whom they desired to fill this exalted position. His name had been frequently mentioned and friends had urged him, during the fall of 1877, to signify his willingness to accept the position. On December the 20th he wrote that, in his judgment, the time had arrived when "silence



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was no longer proper, if possible." After expressing the high estimation in which he held the office, saying "that to fill it worthily would be the highest reach of my ambition, and even to be esteemed worthy by any considerable number of the Bar and people of North Carolina is an honor which touches me profoundly," he concludes that "in this, as in so many other things, I must be obedient to necessity." His obligation to his family in view of the small salary made it impossible to accept the position. In January, 1878, Chief Justice Pearson died and Governor Vance promptly tendered the appointment to Mr. Davis. In his letter of January 24 h he said:

"I desire to avail myself of this opportunity to say to you in person what I have always thought in your absence, that you are one of the men who have steadily pursued principle for its own sake, spurning alike the temptation of office and the lures of ambition when they came not strictly within the utmost requirements of dignity and manly honor. As such there has come to me, as the result of my position, no greater happiness than the ability to testify my appreciation of your character and worth and of the great service your example has been in shaping and toning the political ethics of our society. In attempting to honor you by the bestowment of that great office, I have also attempted to show what is my own sense of State honor, as well as to give expression to the general voice of our people. In this respect I was happy in the belief that I could not err as between you and the distinguished gentleman who was finally chosen."

The kindest relations had, for many years, existed between Governor Vance and Mr. Davis, based upon mutual respect and admiration for the high qualities which made them, while of different types, kindred spirits. Colonel William L. Saunders said that he "doubted whether a Chief Justiceship was ever tendered to any one so exclusively for the reason that personal fitness and popular demand concurred in dictating it." I am sure that Mr. Davis expressed his real feeling when he declared that his "public life was long since over," that his "ambition went down with the banner of the South." That the tender of the highest judicial position in the State, by one whose confidence he so highly esteemed and under circumstances so honorable to both, may have stirred his professional ambition to write his name in the judicial annals of the State is not im-

probable. There can be no doubt that, as he always did, he gave the true reason for his action, a high sense of duty; that his action in respect to holding office did not proceed from an unwillingness to render service to the State is manifest from his prompt response to a call which came soon thereafter. While Mr. Davis held in sacred memory the events of the past, there was no withdrawal of interest in, or failure to discharge the duties of the present. No man was more keenly interested in or more willingly contributed of his time and service to the welfare of the city and State. An illustration of this is found in an incident of vast and permanent import to the State.

In seeking accurate information for the preparation of this paper I called upon Governor Thos. J. Jarvis for an account of Mr. Davis's connection with the sale of the Western North Carolina Railroad. Responding to my request, after referring to the aid which had been contributed by the State to building railroads, he said in substance:

"When Best and his associates in 1879 proposed to buy the Western road, the State was continuing her policy of building and operating railroads. I knew that to sell it meant to reverse this policy, but this was just what I wished to do. I wished to divorce the State from works of internal improvement and direct her energies to the development of her resources and the education of her children. I determined on a policy of letting private capital and enterprise build the road and let the State take up those things which belonged more particularly to the functions of government. When I determined to sell the Western Road I also determined to close, if possible, every avenue of failure. It was my desire and purpose to sell the property under conditions that would secure its completion and that would leave behind the sale a public sentiment which would uphold what I had done. I studied the situation. I called the board of directors of the road in session in Raleigh, and they advised me to reject the offer and go on with the work of building. A number of strong men came out in violent opposition. Many of the public men of the State were silent and waiting. My never failing source of wisdom and power was my dear old friend, Colonel William L. Saunders. He and I concluded that the two ablest, purest, most powerful, and most unselfish men in the State were George Davis of Wilmington and Thomas Ruffin of Hillsboro. I telegraphed these gentlemen to come to Raleigh. They promptly came. I told them in detail, and with absolute frankness, my plans. I told them I wished to reverse the policy of the State in regard to railroad building and operation. I explained to them that I wished

to get the State out of all her railroad operation and encourage private enterprise and capital to take up that work. I also explained to them the work I wished the State to enter upon. I laid before them the inviting field of development and education and especially my purpose to stop building railroad, and begin building school-houses. I did not withhold from them the opposition I was about to encounter. After explaining everything, I said that if they would sustain me, and approve the policy I was about to inaugurate, I desired to employ them as special counsel for the State, to prepare the bill to be submitted in the Legislature for authority to sell the road when I should call it together; to prepare the bill of sale and the contract for the completion of the road and, in all things, to protect the State's interest, and to advise with me in the entire transaction. I also said to them that I would pay them a reasonable fee for their services. They said to me that they cordially and heartily endorsed my views and that they would take their place by my side and stand with me in the work, but they must be allowed to do so without fee or the hope of reward. They said they sincerely believed I was undertaking a work which, in coming years, would bring great blessings to the State and which should be cordially approved by the people, and they were glad to have an opportunity to take part in it, but it must be without pay. I turned over to them the preparation of all the papers and they at once took up the work with Best and his attorneys. When the Legislature met in special session they had everything ready and they offered to be present when needed.

"A day or so after the Legislature met, Judge Merrimon, in an address at night in the House of Representatives, before the members of the Legislature, made an assault upon the proposed sale of the property and appealed to the members to defeat it. A night or so afterwards, Judge Ruffin replied to Judge Merrimon and fully explained the provisions of the bill and the proposed new State policy. His speech was sharp, incisive and convincing. A night or so after this, Mr. Davis spoke, for the State administration, in favor of the sale of the property and the inauguration of the new State policy. The hall of the House was packed, the members of the Legislature occupying the floor of the House and the visitors the lobbies and the galleries. It was a great speech, of great sweep and power. His diction was perfect and his manner faultless. Some of his periods, describing the grandeur and beauty of our mountain section and their prosperity under the new State policy, were beautiful in the extreme. His speech swept away all opposition, and when the vote was taken but few, in either house, voted against authorizing the sale. After the adjournment of the Legislature Mr. Davis and Judge Ruffin prepared the deed for the sale of the road and the contract for its completion. For all their valuable services

they declined to receive a penny, not even the payment of their hotel bills.

"No two men ever served their State more faithfully, more efficiently or more unselfishly. You can say all you will in commendation of their services and the half will not be told. At the next regular session of the Legislature, the State road from Fayetteville to the Gulf was sold to a North Carolina syndicate, and was soon extended to Bennettsville, S. C., to Wilmington, N. C., and to Mt. Airy, via Greensboro. With the sale of the Western North Carolina Railroad the State's policy was completely reversed and from that day the State has put no money in the railroad, but has encouraged railroad building by individual capital and enterprise. Having taken the State out of railroad building I took up the building of school-houses and making exhibition of the State's resources and inviting capital into the State. Whether I acted wisely or not, it is not for me to say, but it has ever been a source of great satisfaction that in the effort I made to bring about this change, I had the support and approval of Davis and Ruffin, two of the State's greatest citizens."

Whatever difference of opinion may have then existed, or now exists, regarding the wisdom of the policy adopted by Governor Jarvis, there can be no question of the unselfish patriotism with which all concerned acted on that occasion. It is interesting to note that the policy inaugurated by Governor Jarvis was in accord with that adopted by the authors of internal improvement in North Carolina; that the State was not to operate but to control the operation of the railroads. The State, in a different way and by different agencies, has worked back to the original design and no one at this day seriously advocates a return to the building and operation of railroads by the State.

This was the last special service which Mr. Davis was called upon to render to the State. After the restoration of confidence by the inauguration, by the people, of a government "of their own choosing," business revived, capital sought investment, the commerce and business of the Cape Fear section extended, resulting in a demand for professional services, the qualities of which Mr. Davis possessed in the highest degree, learning in the foundation principles of the law, familiarity with the decisions of the courts of last resort, upon questions of commercial and corporation law, careful preparation of contracts and other instruments, and mature judgment. He was counsel for several

of the railroads and other large corporations of the city. Upon the death of Mr. William A. Wright he became the general counsel of the Wilmington and Weldon Railroad, which position he retained until his death, with the absolute confidence of its officials and stockholders. During his relation to this company its extension and development demanded legal counsel and service of the highest order. That it successfully, and with but little litigation, passed through changes of organization, extension and enlarged connections, is largely due to his wise counsel, profound learning, careful method in dealing with the interests committed to his care. Mr. Harry Walters, chairman of the board of directors of the Atlantic Coast Line Railroad Company, writes of Mr. Davis that in the formation and development of the roads which form that system "no legal step of any importance were taken until they met his full approval. Generally the required papers in each step were prepared and given form by him for adoption at our meeting, where he generally presided. In no man could more confidence have been placed and no man could have more fully measured up to this confidence. While he was cautious, it was a caution which had grown with his mature experience and gave to his decision the weight which carried conviction. His wonderful simplicity of character sometimes misled the blunderer into the belief that he was vacillating. Such belief, however, lasted only while he gathered the facts. These secured, his diffidence vanished, and in clear, concise and convincing English he carried every one with him to his conclusion." Colonel Warren G. Elliott, president of the Atlantic Coast Line Railroad Company for several years, said: "It was my good fortune, in the discharge of my official duties, to have the benefit of his advice and counsel and if ever a difficult or doubtful question arose it was solved by him on the side of truth and justice."

At the time of the death of Mr. William T. Walters, the founder of the Atlantic Coast Line system, Mr. Davis said:

"His whole life was lived under the law of rugged toil and anxious care. * * * Trivial amusements and fashionable fads he despised. His keen sagacity to learn where great possibilities lay dormant, and the courage to group and fix them, the ability to command great success and to weld and organize them, never losing sight of details,

until the whole were [sic] moulded into one consistent plan, with the energy and resolution which move on as resistless as fate until the work was done. * * * His was no gilded youth, no dallying with opportunities and catching them only when they fell into his hands. He made his opportunities and utilized them for himself and that, after all, was the great lesson of his life. His consolation was that his life work went not down into the dust, but fell into the hands of one reared in his own method and in the light of his own example."

In this connection it is pleasing to note an incident creditable to both the giver and the receiver, to which Mr. Davis contributed. On November 26, 1886, Mr. Walters presented to Captain James Knight, who had been in the service of the company for fifty years, a handsome embossed silver pitcher with salver as a "testimonial to his never having been found wanting during a half century of railroad service." All of the prominent officials and all employees of the system in Wilmington being present, "Mr. Davis presented the testimonial to Captain Knight, on behalf of Mr. Walters, and alluded feelingly to his own knowledge of the recipient's worthiness, as well as the significance of the compliment coming from such a source."

It was in the rendering of such service, both of speech and acts, that this splendid Cape Fear lawyer and gentleman spent the last years of his long life among his own people. He was an honorary member of the Chamber of Commerce and was always interested in and contributed to the success of all efforts to promote the commercial and business interests of the city.

The last public address made by Mr. Davis was at a meeting of the citizens of Wilmington, on December 11, 1889, in memory of President Jefferson Davis. It was then that he rose to the height of noble oratory. Relegating to history the fame of the President as "a soldier, orator, scholar, patriot," he says:

"I desire to utter only a few simple words in loving remembrance of the Chief I honored, of the man I admired, of the dead friend whom I loved. What manner of man was this for whom ten millions of people are in grief and tears this day? No man ever lived upon whom the glare of public attention beat more fiercely—no man ever lived more sharply criticised, more sternly censured, more strongly condemned, more bitterly hated, more strongly maligned, and, though slandered by enemies, betrayed by false friends, carped at by ignorant fools, no man ever lived who could more fearlessly

like a great man who long preceded him 'leave the vindication of his fair fame to the next age, and to men's charitable speeches.' Standing here today by his open grave and, in all probability not very far from my own, I declare to you that he was the honestest, gentlest, bravest, tenderest, manliest man I ever knew; and what more could I say than that? * * * For six months I had the honor to be at the head of the law department of the Government, and every sentence of a military court that went to Mr. Davis was referred to me for examination and report. I do not think I am a very cruel man, but I declare to you it was a most difficult thing to keep Mr. Davis up to the measure of justice. He wanted to pardon everybody, and if ever a wife, or mother, or sister got into his presence, it took but a little while for their tears to wash out the records. * * *

"I once witnessed a scene which showed how the people loved him. In May, 1867, after two years of the most brutal treatment, the most brutal imprisonment the world ever saw outside of Siberia, unrelieved by the slightest touch of kindness or even generosity, Mr. Davis was brought to trial before the Federal Court in Richmond. I chanced to be there and promised Mrs. Davis, as soon as I had any intimation of what the court was going to do, to come and report. I sat in the court when Chief Justice Chase announced that the prisoner was released. I never knew how I got out of that court-house, or through the crowd that lined the streets, but I found myself in Mrs. Davis's room and reported. In a little while I looked out of a window and saw that the streets were lined with thousands and thousands of the people of Richmond and scarcely passage was there for even the carriage in which Mr. Davis rode at a funeral gait. And, as he rode, every head was bared, not a sound was heard except now and then a long sigh. And so he ascended to his wife's chamber. That room was crowded with friends, male and female. As Mr. Davis entered, they rushed to him and threw their arms around him. They embraced each other, old soldiers, men of tried daring, cried like infants. Dear old Dr. Minnegerodt lifted up his hands, with big tears rolling down his cheeks, and the assembled company knelt down while he offered up thanksgiving to God for having restored to us our revered chieftain."

Mr. Davis was present at the expected trial from a sense of loyalty to President Davis and to render such aid in the trial as might be in his power. He had been invited by President Davis to act and was called into consultation with his other counsel. Mrs. Jefferson Davis wrote of him, "he was one of the most exquisitely proportioned of men. His mind dominated his body, but his heart drew him near to all that was honorable."

and tender, as well as patriotic and faithful in mankind. * * * Once when my husband came home wearied with the divergence of opinions in his Cabinet, he said: 'Davis does not always agree with me, but I generally find he was right at last.'

He never again addressed his people in public, a singularly fitting conclusion of his noble eloquence; it first found expression in his eulogy on Henry Clay, the idol of his young manhood, it ended with words of high eulogy and loving tenderness of his venerated Chieftain and friend.

The liquidation of two large banks, together with the business depression incident to the disturbed financial conditions in the country, during the last decades of the century, caused much litigation in this section of the State. Mr. Davis was of counsel in the important causes growing out of these conditions and performed, during these years, the most laborious work of his professional life. Many of these causes presented questions of first impression in our courts. Questions of corporate liability, conflicting rights and liabilities in banking and commercial transactions and parties to negotiable instruments, required a careful and extended research into the decisions of the Federal and other State Courts. To them he gave the most thorough investigation and careful consideration, involving immense labor and thought.

These years brought to him deep affliction in the death of Mrs. Davis, on July 27, 1889, and of other members of his family; nor did he escape those reverses and losses incident to periods of business disturbance. He was a man of deep and tender affection in his family, ever watchful of their welfare and happiness. He met reverses with that calm resignation and courage which ever marks a strong man. The waters of affliction did not overwhelm, but strengthened and steadied the currents of his life. Mr. Davis placed in their proper relation, in the adjustment of the things pertaining to life, the gathering of riches. He knew and correctly estimated their value in meeting and discharging the duties to, and making provision for the welfare of his household and discharging his duty to the community. They were made by him, as they are always made, by wise men, to serve, and not permitted to control, his life. As Mr. Davis passed the years allotted to human life,

physical infirmity came to him, he walked more slowly, his form showed the weight of many years, but the quiet gentleness of spirit and manner which came, as the result and expression of a well ordered life, in which "resignation gently slopes the way," became more strongly marked. As he said, he "had abundant time in all these quiet years, and it had been his favorite occupation to review the occurrences of the past and recall the history of the tremendous struggle in which he had taken part and to remember with love and admiration the great men who bore their part in its events." It has been said, "there is an element of infinite sadness in the attitude of all men who have lived through great revolutions. They have virtually lived in two worlds and only those possessing the highest wisdom, or the most amazing thrift can survive the shock of the transition. * * * Great movements in society, like great changes in nature, are marked by cruelty, violence and injustice." While Mr. Davis was absolutely loyal to all that was best in the past, while he was keenly sensitive to the wrongs and injustice to which his people had been subjected, neither by counsel nor countenance did he encourage others in vain regrets or refusal to meet and discharge the duties of citizenship. There was no weak plaint over an irrevocable past, but only brave words and high courage for the new duties that the new regime imposed. Referring to the institution of slavery, he said: "Slavery is in the grave and nothing can disturb its eternal rest. I would not, if I could, raise it from the dead. The slave is free—God speed him in his freedom and make him worthy of it." While he recognized, without regret, the passing of the system, he would not join in the popular denunciation of the slaveholder. Of him he said:

"The slaveholder has passed into history at the cannon's mouth. * * * He did the State some service, was great in counsel and in action, clean in honor and in truth, and always a man wherever true manhood was wanted. He knew how to compel the love of friends and the respect of enemies and how to build his proudest monuments in his country's greatness. * * * True, he ended well—true he stood and died by his hearthstone, fighting, as he believed, for God and country."

Catching a vision of the future, he says:

"That spirit is not dead. It will rise again—not in the old likeness, for old things have passed away. But transformed and quickened into a new life. Once again it will make itself a name, for the nation to sound. Once again it will step to the front and pass first in fight as it was wont to do, whenever great opinions are clashing or a great cause imperiled. Once again to the front whenever and wherever freedom's battle is to be fought. Once again to the front no more to contend with brothers in arms, but only in the generous strife for the glory and honor of the common country."

On February 23, 1896, at the age of seventy-six years, in the midst of those who loved and honored him, in the city wherein he had dwelt all the years of his life, he "went to his fathers in peace." Of such a life and its end, in this world, the thought comes: "Natural death is, as it were, a haven and a rest to us after long navigation. And the noble soul is like a good mariner, for he, when he draws near the port, lowers his sails and enters it softly with gentle steerage. * * * And herein we have from our own natures a great lesson of suavity; for in such a death as this there is no grief, nor any bitterness."

The work of a great lawyer, while calling into action the highest order of talent, demanding constant and unremitting labor, secures the most transitory reputation. The brilliant, eloquent advocate who, by his appeal to the judgment, the emotions or the sympathies, wrests verdicts from juries and elicits the most enthusiastic applause from crowded court houses, retains but a temporary tenure upon the memory of his hearers. Arguments addressed to courts, based upon briefs laden with the results of long and laborious effort, with the wealth of authorities and the most profound reasoning upon "first principles," soon become but vague memories, praised by the Bar, never read after the cause is lost or won. This may, to some extent, be explained by the fact that the great arguments of the lawyer are directed to special circumstances and conditions and are dependent upon the temporary interests surrounding the case. Whatever may be the explanation, the truth is recognized by all who have given attention to the subject. That Mr. Davis was one of the great lawyers, the great advocates of the State for more than a third of a century, that he was profound in

"the learning of the law," diligent and resourceful in the preparation, and successful in the conduct of great causes before juries, and courts of last resort, is a part of our State's history for the thirty years prior to his passing away—yet, it is quite impossible, with diligent research, to reproduce any great speech or argument made by him at the Bar. That he argued causes of permanent interest in the Supreme Court is known to students of our reports and recognized by Judges delivering the opinions. While he was, in no proper sense, a criminal lawyer, his brilliant and successful efforts in this department of his profession are recalled with enthusiastic admiration. One who, for many years, practiced at the same Bar, and whose opinion is of value, says: "He loved the science of the law and to it he gave the most devoted study and unremitting toil, forcibly illustrating by the care and completeness with which he prepared his cases, the amplitude of his researches and the wide survey and scope of knowledge which he displayed—all combined by consummate skill into clear, cogent and convincing argument, perfect in its construction. * * * Mr. Davis was strong and effective to the jury in capital cases. * * * I heard him frequently in civil causes and always with pleasure and instruction, but among his best and finest arguments are now recalled those of *Jaffray v. Bear*, 99 N. C. Rep., 158; *Williams v. Bank*, 79 N. C. Rep., 129, and *London v. Railroad*, 88 N. C. Rep., 584." These cases are all familiar to the Bar, as involving new and difficult questions of law. A gentleman of fine discrimination and severe standards says: "One of the most beautiful arguments, as well as the most persuasive and convincing I have heard, was made by Mr. Davis while too feeble to stand in Court and speaking by permission from his chair in the case of the *First National Bank v. Davis, Receiver*." He frequently appeared in important cases in the Federal Courts. He argued with great learning the case in Admiralty, being a libel against the *Cuba*, a filibustering craft, winning very high praise from experienced Admiralty lawyers. "He was remarkably proficient in this branch of the law founded upon principles of justice and equity, developed from the admirable principles of the civil law. * * * He was thoroughly sound in his knowledge of the principles of the law,

as worked out by the Courts, and skillful in his power of analysis and application of those principles to the facts of cases as they arose; he was a little impatient of novel ideas in the law; in the argument of legal questions he appealed more to the reason than to the emotions."

I came to Wilmington very soon after my appointment to the Bench when Mr. Davis was, in all respects, the acknowledged leader of the Bar in the Cape Fear section and shared with Mr. Dortch the leadership in Eastern Carolina. His kind consideration, his courtly bearing and charming manner, relieved in a very large degree the embarrassment of a young Judge presiding over a Court with a Bar of distinguished ability. He argued several causes, in one of which was involved a number of difficult questions regarding the always difficult question of the contractual liability of married women. Aided by his learning I was enabled to steer clear of "error"—at least it was so held by the Supreme Court. I recall that he expressed regret that we had not given "full force and effect" to the constitutional and statutory changes in the law in this respect. Although too long "belated" for the integrity of contracts and the peace of mind of Judges, it is pleasant to know that, at the last session of the General Assembly the law was brought into that harmony with justice and wise public policy so long delayed by the Court.

Whatever may be said of the evanescent fame of the lawyer, we are not left to the "slippery memory" or shifting judgments of the living to fix Mr. Davis's place as an orator of rare excellence and permanent position. Says Mr. James Bryce: "As dignity is one of the rarest qualities in literature, so elevation is one of the rarest in oratory. It is a quality easier to feel than to describe or analyze, we may call it a power of ennobling ordinary things by showing their relation to great things, of pouring high emotions around them, of bringing the worthier motives of human conduct to bear upon them, of touching them with the light of poetry." And, says Goldwin Smith, another great English scholar and author, "No orator, however perfect in his art, can hardly be impressive without weight and dignity of character." Mr. Webster declares that, "When great interests are at stake and strong passions excited

nothing is valuable in speech further than as it is connected with high intellectual and moral endowment." Measured by this standard, it is not difficult to understand the power exerted by Mr. Davis over men "in the spoken word." His manner was dignified and deeply impressive. Says Dr. C. Alphonse Smith: "His power over an audience did not rest upon oratorical gifts, but rather upon the high moral, social and civic ideals which he exemplified in his daily life." *

In any just estimate of Mr. Davis, as a writer and an orator, three qualities will be found preëminent. There is first the mark of the trained historian in the accurate and exhaustive references to the best literature bearing on the subject in hand. * * * In the second place, Mr. Davis brought an interpretative imagination to bear upon every topic that he discussed. His mastery of facts was not an end in itself, but merely a starting point. It was the coign of vantage from which he visualized the scenes and vitalized the events that he sought to portray. It is this quality of mind that gives color, *localité*, and atmosphere to what would otherwise be mere abstract statement, or unrelated fact. This vivifying power is not the exclusive dowry of the poet, but distinguishes equally the orator from the mere talker, the historian from the mere annalist. In the third place, Mr. Davis had that rarest of gifts, the feeling for the right word in the right place. There was no straining after effect, but his style was always clear, strong and flexible. He could be dignified without being heavy, and playful without being light." His habit was thoroughly to prepare his orations. Why, in the poverty of our own language, attempt description when the work of the master is before us. In an address delivered before the Greensboro Female College in 1856, Mr. Davis thus describes the riches of a well-stored mind:

"It can create its own beauty, wealth, power, happiness. It has no dreary solitude. The past ages are its possession and the long line of the illustrious dead are all its friends. Whatever the world has seen of brave and noble, beautiful and good, it can command. It mingles in all the grand and solemn scenes of history and is an actor in every stirring event. It is by the side of Bayard as he stands alone upon the bridge, and saves the army; it weeps over the true heart of chivalry, the gallant Sidney, as with dying hand he puts away the cup from his parched and fevered lips. It leaps into the

yawning gulf with Curtius; follows the white plume of Navarre at Ivy; rides to Chalgrove field with Hampden; mounts the scaffold with Russell, and catches the dying prayer of the noble Sir Henry Vane. It fights for glory at the Granicus, for fame at Agincourt, for empire at Waterloo, for power on the Ganges, for religion in Palestine, for country at Thermopylae, and for freedom at Bunker Hill. It marches with Alexander, reigns with Augustus, sings with Homer, teaches with Plato, pleads with Demosthenes, loves with Petrarch, is imprisoned with Paul, suffers with Stephen, and dies with Christ. It feels no tyranny and knows no subjection. Misfortune can not subdue it, power can not crush it, unjust laws can not oppress it. Ever steady, faithful and true, shining by night and by day, it abides with you always and everywhere."

In an address before the Wilmington Library Association, describing Richard the First and the Crusaders, he says:

"We, too, have had and have our Champions of the Cross, our Soldiers of Christ better, braver, nobler Crusaders against the infidel, not with fire and sword, but with the blessed gospel of peace and love. One, a poet and a minstrel as well, so simple and childlike of heart, so gentle and pure, so loyal and true, so serene and grand in look that when he gave up his life for the faith that was in him he left no nobler behind. Richard of England, with all his kingly crown and chevalier fame, was not worthy to kneel low in the dust and kiss the hem of the garment of Reginald Heber."

In the light of the continual and persistent cry of men, impatient of the "technicalities of the law" and longing to bring back the "good old times" when "crime was punished swiftly," when "justice was not delayed," the description given by Mr. Davis, true to history, of the way in which justice was administered in the reign of "Good Queen Bess," is both instructive and illuminating. Says he:

"This reign, when viewed in the light of modern freedom, was a most cruel and unmitigated despotism. The absolute power of the Queen was established upon more than twenty branches of prerogative, every one of which was utterly inconsistent with rational liberty. She granted monopolies which, in some instances, raised the price of the commonest necessaries of life more than sixteen hundred per cent. She laid embargoes upon commerce. She altered laws by mere force of her own proclamation. She extorted forced loans from her people and repaid them when she pleased—but always without interest. By right of purveyance she seized the produce of the farmer and paid for it at her own price and in her own way.

Upon any disturbance she placed the kingdom under martial law, and the county lieutenants and their officers punished as rebels all whom they pleased to suspect. But the Star Chamber, and the High Commission Court were the chief instruments of her tyranny. And either one of these, in our time, would make a revolution in three days. These courts were presided over by persons holding their office at the will of the Crown, having an unlimited and discretionary power of fining, imprisoning and inflicting corporal punishment. Of course they were always the ready and subservient tools of the royal displeasure. Did any offend? If the offence was unknown to the law, the Star Chamber gave it a name and assigned it a punishment. Was the evidence incomplete? The rack and the torture supplied the deficiency. As if this were not enough, the Secretary of State and the Privy Council could issue their warrants at will, arrest whom they pleased with, or without, suspicion and without a show of trial imprison them for an indefinite time. And from the beginning to the end of this reign the jails were crowded with prisoners, for State offenses. The trial by jury existed but it was not demandable of right and, when granted by the favor of the Crown, it was worse than a delusion and a mockery. The judge, instead of being the impartial minister of the law, was, in most cases, the advocate for the prosecution. The prisoner could not know wherewith he stood charged until the indictment was read to him at the trial. He could not cross-examine the witnesses, but the evidence was secretly taken and only published at the bar. He could not have counsel; but alone and unaided he must defend himself against the ablest and most learned lawyers of the realm, spurred on by the hope of royal favor. And if fortunate enough to beat them with the simple power of truth and innocence, the jury dared not render an honest verdict for fear of the Privy Council and Star Chamber. During this long reign, disturbed by many outbreaks, in scarcely a single instance did the government fail in the prosecution when they wished to convict. Thank Heaven, we live in another day."

To those who are so conservative as to think the guarantees securing a fair and impartial trial according "to the law of the land" worth preserving, his language showing the contrast between those "good old days" and a government, not "of men but of law," is as the teaching of the sages and elders:

"I have seen many a wretched criminal stand for judgment upon his life or death—friendless, abject, miserable, poor. I have seen the prosecution embittered by private vengeance and hot and eager for his blood. And I have seen the wise, humane and just judge carefully, anxiously, tenderly guarding every right of the accused

and leaning, if at all, to mercy's side. Did the rack and the torture wring out confession? Our law declares that confession induced by hope or extorted by fear shall not be heard. Was the evidence taken in secret? Our law declares that the witness shall confront the accused. Was he left alone to battle for his life against all the ability of astute and learned lawyers? Our law entitles him to counsel; and if he be poor, gives it to him of mere tenderness and charity. And to the honor of my profession let me say that never yet have I seen such counsel fail or even falter in their painful duty."

Then follow words, weighted with wisdom:

"We know not what the future may have in store for us. It may be in the providence of the Almighty that in the dark and distant hereafter the waves of barbarism and destruction may overwhelm our beloved country and her proud cities become, like Nineveh and Carthage and Baalbeck and Palmyra. It may be that some curious traveler from a distant and barbarous land, some Layard or Champollion of the East, may search in vain for her public records, her monuments and her stately temples; and find all whelmed in hopeless ruin and obliivion. But let only these stray leaves from her Statute Book, dim with age and mysterious in an unknown tongue, but flutter to his feet and be deciphered, and they will build for my country a prouder monument than the beauties of the Parthenon or the grandeur of the Pyramids. For they will proclaim in language not to be misunderstood that here, in the midst of this desolation, once lived a free, a happy, a civilized and a Christian people."

Following the description of the despotism of the Tudors and the Stuarts, he utters a warning which it were well that we heed:

"These dark retrospections are fraught with one great lesson. Happy are they who learn it! They teach us how inestimably we ought to prize the blessings we enjoy when we have seen from out what blood and tears and woes unutterable they have been so slowly and painfully wrought. Magna Charta, the Habeas Corpus, the Petition of Right, the Constitution and the Union, these priceless gems of human liberty were only upheaved from the depths of darkness by earthquake throes of human pain and suffering. And yet there live those who think and say that it is so easy to destroy and build again; who even smilingly declare their readiness to lay their sacrilegious hands upon the Ark of the Covenant, though history teaches us plainly, as a revelation, what despair and death lie in the act."

May we not indulge the hope that his writings and orations will be gathered and preserved in permanent form? They are models of high thinking, noble expression, historical research, and wise reflections. Mr. Davis was, in the largest and best sense of the word, a conservative. He comprehended the truth that "the first condition in a sound Constitution of the body politic is a due proportion between the free and permeative life and energy of the State and its organized powers." He knew, and did not forget, that, in his own time and in his own country, all that was worth preserving in the political and social life of his people was saved from the Crusade of passion, unbridled power, and partisan necessity, waged, by those who boasted that their work of destruction should be "thorough," by the conservative "remnant" who stayed their hands until reason and justice could be heard. That, when not only the liberty, but the integrity of race and manhood of his people were attacked, when States were "prostrate" and civilization threatened, it was the "conservative" who resisted the enforcement of the "will of the majority" until the Constitution could find its defenders in the Senate and the Courts. That it was by the enforcement of "constitutional limitations," then, and, by too many now, regarded as obsolete abstractions and inconvenient obstructions to the demands of the majority of the hour, that life, liberty and property were preserved, that it was when Thurman and Bayard in the Senate, Black and Field at the Bar, and other Conservatives appealed to the Constitution, and demanded that its limitations be enforced, that the passions engendered by war and a people drunk with power were halted in their mad course. He knew that personal and political liberty are sacred and safe only, when to the rich and the poor, the strong and the weak, "due process of law" is secured and the "law of the land" is enforced as a "limitation" upon Government and a shield of protection to the citizen. That "the will of the people" is to be found in the Constitution as "a supreme limitation" upon legislators, executives and judges alike, that by its enforcement legislators were reminded that their power "lay in grant," and that executives were taught that this was a Government not of men but of law, that the writ of *habeas corpus* could not be suspended in time of peace, and that the civil and not the mili-

tary power was supreme. He saw in our constitutional system "the way in which liberty is blended with order, the principles of progression with the securities of permanence; the relation of the States and the function of the Union." The conservation of these he regarded as "the duty of a thoughtful patriotism" and "the chief end, the largest duty and the truest glory of American Statesmanship." Such conservatism affords the largest possible opportunity for wise progression, meeting new conditions and giving expression to the noblest aspirations of a free, enlightened and patriotic people. Mr. Davis knew that this is the essence of Constitutional, representative government as distinguished from absolutism, which, whether of monarchy or democracy, always destroys freedom of thought, of speech and of action. There is neither time nor occasion in the affairs of States when it is not essential to their preservation. Those who hold loyally to this conservatism must be content to find their reward in the consciousness of the performance of duty, and their vindication at the bar of impartial history.

Of such was Mr. Davis. His was not a blind worship of the past, but a reverent regard for its lessons as a guide for the present and an assurance of the future. While in every fiber of his being Mr. Davis was a patriotic, loyal North Carolinian, he loved, with an exceeding love, the lower Cape Fear—he loved its storm-swept coast, its forbidding capes, the rich foliage of its grand old trees, their moss-hung limbs, the flora of its rich soil, the graceful curves of its rivers and creeks, the shady nooks on their banks. He rejoiced in its traditions, his heart beat with pride of its past and hope for its future. Its people were his people; their destiny, for weal or woe, was his. Of his ancestry he cherished "an honorable pride," which inspired "the exercise of the noblest patriotism, not prompting to empty boasting, but quickening every generous impulse and stirring to the purest ambition."

To every thoughtful man, thinking upon the "good and brave, who are no more to suffer from the turmoils of the natural world," the question comes, has always come and always must come: Upon what foundation were the essentials of his life builded; what were, to him, the essential truths respecting his relation, in time and in eternity, to a Supreme Being; how did

he answer the question of the ages, "If a man die shall he live again?" These are the prompting of human life, of human experience, of human hope. In seeking their answer we may not intrude into the sacred precincts of the soul, the sacred recesses of life and experience—these we may not invade. Standing by the grave of his friend and, as he said, "not far from my own," Mr. Davis gave the answer of every human soul to which life and its mysteries, its revelations and limitations are sacredly real. The answer is reassuring, inspiring and full of hope. To him we may with confidence appropriate the words which he spoke of the friend whom he loved:

"His great and active intellect never exercised itself with questioning the Being of God or the truth of His revelations to man. He never thought it wise or smart to scoff at mysteries which he could not understand. He never was daring enough to measure infinite power and goodness, by the poor, narrow gauge of a limited, crippled human intellect. Where he understood he admired, worshiped, adored. Where he could not understand, he rested unquestioningly upon a faith that was as the faith of a little child—a faith that never wavered, that made him look undoubtingly, fearlessly through life, through death, to life again."

Mr. Mayor:

Before discharging the commission with which I am honored by the ladies of the Cape Fear Chapter of the United Daughters of the Confederacy, in the completion of their patriotic work, I ask permission to refer to an incident, illustrative of the rule of conduct by which Mr. Davis guided his life. Twenty-six years ago, when I was a member of the State Senate, a vacancy occurred in the office of Superior Court Judge in the district in which I lived, not including New Hanover County. My relations with Mr. Davis were not based upon an acquaintance sufficient to justify me in expecting his support for the appointment. Mr. David Stone Cowan, also a Senator, and an intimate friend and a warm admirer of Mr. Davis, without my knowledge, wrote him suggesting a letter to the Governor endorsing my appointment. My first intimation that he had done so came from Mr. Cowan, who read me an extract from a letter received by him from Mr. Davis, in which he wrote that he was not sufficiently acquainted with me, or my

capacity to discharge the duties of the office, to justify him in writing the Governor, but that, from what he had learned, and from the fact that I was a Wilmington boy, he hoped that the appointment would come to me. In this incident we have an example of the sense of responsibility and the strict regard for truth which always characterized his conduct, and which in this instance controlled his desire for the promotion of "a Wilmington boy." It is not difficult to understand, that when the invitation came to me to take part in these ceremonies, I found a peculiar personal pleasure in accepting. In the discharge of my official duties, I was permitted to know Mr. Davis and came to value the high qualities of which his conduct on the occasion named was an illustration. I afterwards enjoyed his hospitality and his conversation, which was always informing and elevating.

In the years which are to come to this city, men will admire this work of art, delight to look upon its symmetry, its perfection; it will stimulate and sustain civic pride; men will point to it as an expression of the value attached by you to the memory of a man "who steadily pursued principle for its own sake," but its greatest value will be as a guide to your young men when they shall ask: "Whom shall we consecrate and set apart as one of our sacred men, that all men may see him, be reminded of him, and by a new example add to old perpetual precept, be taught what is real worth in man, whom do you wish us to resemble?" You shall bring your sons to this spot, tell them the story of his life, of his patriotism, of his loyalty to high thinking and noble living, of his moderation in speech, his patience under defeat, of his devotion to your city and his State, as a perpetual illustration and an enduring example of the dignity, the worth, of a "high-souled, pure-hearted Christian gentleman." Upon you and upon the people of your city the high service rendered by these patriotic ladies, imposes the trust to guard the gift, and to perpetuate in your civic and personal lives the virtues of him who, by every right, is entitled to be placed in the goodly company of those who, in all of the years, have lived and made, in the annals of the Cape Fear, "luminous pages of illustrious history." As you shall look upon this statue, it shall be both a memorial and a lesson of

the value of a citizenship which will preserve all that is good in the past, and inspire to patriotism and service in the future.

In behalf, and by direction of the Cape Fear Chapter of the United Daughters of the Confederacy, No. 3, I present to the city of Wilmington this statue of the Honorable George Davis, Delegate from North Carolina to the Peace Congress, late Confederate States Senator, Attorney-General of the Confederate States of America, Distinguished Citizen of Wilmington, Profound Lawyer, Eloquent Advocate, Elegant Scholar, Exemplar of Public and Private Virtue—one who “bore without abuse the grand old name of Gentleman.”

Mayor MacRae's Address of Acceptance

Ladies and Gentlemen and United Daughters of the Confederacy:

It is my duty for the Mayor and Aldermen, and for all that is best in Wilmington, to receive this monument. It commemorates the virtues of one of our own fellow citizens, who, through a long life as a great lawyer, never bowed the knee to Baal, never lowered the standard of Right, never stood for anything which his conscience did not approve, never permitted any motive of selfish gain or advancement to move him from his integrity. Though he has crossed over the river, he still survives in the best and broadest sense; for the life that he lived is an inspiration to all. The Beauty of Righteousness is still crimson in his cheeks, and on his lips, and death's pale flag is not advanced there!

If there be any ambitious young men who feel disheartened and discouraged when they see mean men promoted and base actions applauded, let them take heart again, and go forward with renewed courage:

Behold; this statue shall be a witness unto you, lest ye deny your God, and say, in your hearts, that crooked ways are good, and bad methods justifiable.

We receive the statue with pride, and shall count it among the city's most precious possessions.

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