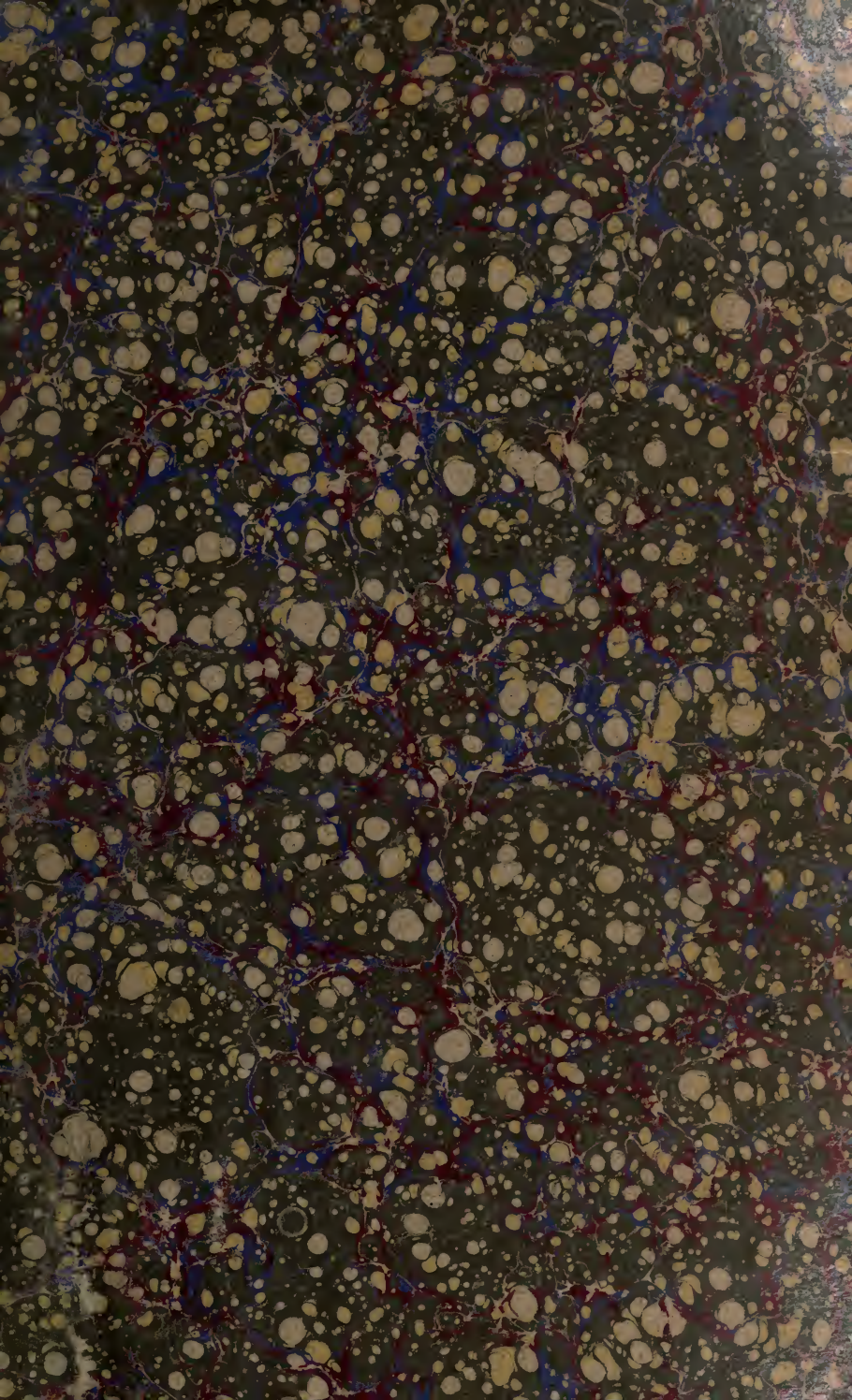






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LIFE AND CHARACTER

OF

HON. DAVID L. SWAIN,

LATE PRESIDENT OF THE UNIVERSITY OF NORTH CAROLINA.

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A MEMORIAL ORATION

BY

GOV. ZEBULON B. VANCE,

DELIVERED IN GERARD HALL,

ON

COMMENCEMENT DAY, JUNE 7, 1877.

AT THE REQUEST OF

THE TRUSTEES AND FACULTY OF THE UNIVERSITY.

---

DURHAM, N. C.:

W. T. BLACKWELL & CO.'S STEAM PRESSES,

1878.

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# MEMORIAL ORATION,

PUBLISHED IN COMPLIANCE WITH THE FOLLOWING LETTER:

RALEIGH, N. C., January 20th, 1878.

SIR:—At the last regular meeting of the Board of Trustees of the University of North Carolina, held in this city on the 16th of the month, it was unanimously

“*Resolved*, That the thanks of this Board are hereby tendered to His Excellency Governor Vance, for his able, eloquent and instructive oration on the life and character of the late Hon. David L. Swain, delivered at the last annual commencement; that the Excellency the Governor be requested to furnish a copy of the oration for publication, and that the Secretary of the Board be instructed to notify him of the adoption of this resolution.”

In accordance with the instructions of the Board I have the honor herewith to notify your Excellency of the unanimous adoption of the foregoing resolution. Very respectfully,

W. L. SAUNDERS, Sec’y Board Trustees.

*To the Excellency Governor Z. B. Vance, Raleigh, N. C.*

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## THE ORATION.

That great range of mountains, extending from the St. Lawrence to the plains of Alabama, called by De Soto APALACHIAN, and by the Indian tribes ALLEGHANIES, which, in their tongue, signifies the *Endless*, attains its greatest elevation in the Black Mountain group, in the Western part of this State.

This group lies partly within the counties of Yancey, McDowell and Buncombe; and the tallest peak of the cluster, and of all the peaks east of the Rocky Mountains, is Mt. Mitchell. From its dominating summit there is thrown off a ridge which runs west, south, and southwest, in a zigzag shape, alternated with deep gaps, tall summits and frightful precipices, until it melts away in the peninsula of plain which is enclosed by the waters of the Swannanoa and the French Broad in the county of Buncombe.

In this range, about seven miles from where these waters meet, there is a little gorge-like valley scooped out of its western slope, which spreads its narrow bosom precisely in the face of the setting sun. The tall dome of Mt. Mitchell literally casts its shadow over this mountain-cradled vale, as the sun first comes up from the Eastern sea.

Great ridges hem it in on either side, gradually melting on the south into the sloping hills on which stands the town of Asheville.

A bold fresh brook from springs high up in the heart of the mountain, ripples through the bottom of this vale, reinforced by a hundred smaller streams pouring from the ravines on the right and left, and empties its bright fresh floods into the French Broad, five miles below the county seat. Near the very head of this valley is a charming little homestead, consisting of fertile bits of meadow on the brook-side, above which are open fields swelling upwards to the skirts of the mountain forests. In the midst of these fields, where the ground slopes gently towards the brook, there stood, about the beginning of this century, an old-fashioned log-house of the kind familiarly known to our mountain people as a "double-cabin." An orchard of a growth and fruitful luxuriance peculiar to that region, surrounded the house and curtilage, imparting that air of rustic beauty and abundance which constitutes a special charm in simple country homes.

This spot at the period indicated, was the home of an honest, upright and intelligent man, whose name was George Swain; and here, on the 4th day of January, 1801, was born the child who became the man to whose memory we desire to do honor this day.

DAVID LOWRIE SWAIN was the second son and child of George and Caroline Swain. His father was of English descent, and was born in Roxboro, Massachusetts, in 1763. He came South and settled in Wilkes, now Oglethorpe county, in Georgia, served in the Legislature of that State five years, and was a member of the convention that revised the Constitution of Georgia. His health failing, he removed to Buncombe county, N. C., in 1795, and was one of its earliest settlers. He was for many years Postmaster at Asheville, and until within two years of his death; becoming insane a year or two previous to that event. Soon after his settlement in Buncombe, he was married to Caroline Lowrie, a widow, whose maiden name was Lane, a sister of Joel Lane, the founder of the city of Raleigh, and of Jesse Lane, the father of Gen. Joe Lane, late U. S. Senator from Oregon, and Democratic candidate for Vice-President on the ticket with Gen. Breckinridge in 1860. This lady had three children by her first husband, one of whom, the late Col. James Lowrie, of Buncombe county, lived and died a citizen of most excellent repute. By her last husband she had seven children. All of these are now dead.

George Swain was by trade a hatter, but like all the thrifty men of his day, he combined farming with his shop, and was a successful man in both, as success was then measured. Whilst his hats were famous all the county over, his little farm on Beaver Dam, the name of the stream on which it was located, was considered a pattern in that period of rude agriculture. His apple-trees, under the shade of which young David was born and reared, were the product of cuttings brought all the way from Massachusetts—a great and tedious journey then—and some of the varieties which he thus imported still remain in that region by the names which he gave them.



He was a man of some learning and much intelligence, mixed with a considerable degree of eccentricity. Like all New Englanders he believed much in education, and struggled constantly to impart it to his children. He was possessed of a most wonderful memory, and I have heard it said by a lady who, as a girl, was intimate in his house, that he often entertained her and other visitors for hours together with the recitation of poems, without book or manuscript.

In this humble but instructive home, secluded from anything that could be termed fashionable society, but trained to industry, and instructed in the ways of integrity, young David Swain's early youth was passed. I cannot subscribe to the phrase so usually employed in describing such biographical beginnings as this, when it is said that the subject of the memoir was "without the advantages of birth." In fact, for a child to be born amid such surroundings, and with such blood in his veins as coursed through those of young Swain, constitute the very highest advantages which could surround the birth and bringing up of a young man who was to fight his way in a country like ours.

The surest elements of success are commonly found in the absence of indulgences in youth, and the most successful warriors against fate are those who are taught by stern necessity to fight early.

Gov. Swain was fond of recurring to the scenes and influences of his early life, and always felt that he had been fortunate in possessing a father to whom he could look with respect and confidence. He maintained a close and confidential correspondence with him from the time he left his roof to make his own way, and often referred to it as having had a most beneficial influence upon him.

In the summer vacation of 1852, he visited Buncombe, and I accompanied him out to Beaver Dam to see once more the place of his birth, then and now in the possession of the Rev. Thomas Stradly. On a spot not very far from the house, he stopped and told me that near this place was the first time he ever saw a wagon. This wondrous vehicle, he said, belonged to Zebulon and Bedent Baird, the grandfather and great uncle of your speaker; Scotchmen by birth, who came to North Carolina some time previous to 1790, by way of New Jersey.

There being no road for such vehicles, this wagon had approached the house of Mr. George Swain, he said, in the washed out channel of the creek, and the future Governor of North Carolina stood in the orchard waiting its approach with wonder and awe, and finally, as its thunder reverberated in his ears, as it rolled over the rocky channel of the creek, he incontinently took to his heels, and only rallied when safely entrenched behind his father's house. He enjoyed the relation of this to me exquisitely. As a palliation of his childish ignorance, however, he added that this was the first wagon which had crossed the Blue Ridge.



With healthful labor at home, and healthful instruction by the fireside, the days of his early childhood passed, till he attained the age at which his careful father thought he should be placed under other instructors. At the age of 15 he was accordingly sent to the school near Asheville, called the Newton Academy. Its founder and first teacher was the Rev. George Newton, a Presbyterian clergyman of good repute, who was succeeded by Rev. Mr. Porter, another Presbyterian clergyman, and then by the late Wm. Smith, of Georgia, familiarly known as "*long Billy*." This Academy was justly famous in that region, and educated in whole or in part many of the prominent citizens of that country beyond the Blue Ridge, and elsewhere. Gov. B. F. Perry and Hon. Waddy Thompson, of South Carolina, M. Patton, R. B. Vance, James W. Patton, James Erwin, and many others of North Carolina, were classmates of young Swain at that school. A lady who is now living and was also a schoolmate of his there, tells me he was a most exemplary boy and diligent student, soon and clearly outstripping all his associates in the acquisition of knowledge. This superiority was doubtless due to the aid of an exceedingly strong and tenacious memory which he inherited from his father, and which characterized him through life. Mr. M. Patton informs me that young Swain taught Latin in the same school for several months.

I am not aware that he attended any other school till he came to the University in 1821; in that year he entered the Junior class, but only remained some four months. Want of means most probably prevented him from graduating. In 1822 he entered upon the study of the law in the office of Chief Justice Taylor, in Raleigh. He obtained license to practise in December, 1822; and referring to that event in his address at the opening of Tucker Hall, August, 1867, forty-five years afterwards, he gives a most entertaining picture of the Supreme Court which granted his license, and of the great North Carolina lawyers who at that time were practicing before its bar.

Returning to the mountains, with his license in his pocket and a sweetheart in his eye, he went hopefully to work, and became almost immediately in possession of a lucrative practice. The good people of his native county were quick to perceive his talents and integrity, and in 1824 he was elected a member of the House of Commons from Buncombe. So great was the satisfaction which his conduct in that capacity gave to his constituents, that they continued him as their member by successive elections until 1829.

In his character as Legislator he was most distinguished for his industry and attention to details, especially in the department of statistics and taxation, in which he soon became the highest authority in the body of which he was a member. He was prominent in getting the bill passed for the building of the French Broad Turnpike, a measure which revolutionized the intercourse between Tennessee, Kentucky and South Carolina, bringing an immense stream of emigration, travel and trade through western

North Carolina, and adding greatly to his own popularity among the people of that region.

In 1829 he was elected by the Legislature Solicitor of the Edenton Circuit, a circumstance remarkable in our legal annals, both on account of his extreme youth at the time of his election to so important an office, and because the Edenton Circuit was in the most distant part of the State from his residence, and it had been the custom to select for that office a lawyer residing in the district for which he was elected. This compliment to his learning and ability was conferred upon him without solicitation, under the following circumstances:

A bitter contest had sprung up between two candidates for that position, one of whom was the notorious Robert Potter, and the friends of neither consenting to give way, by common consent both sides agreed to take young Swain.

He rode only one circuit, when the next Legislature elected him a Judge of the Superior Court over Judge Seawell, then an able and eminent practitioner at the Raleigh bar. Swain was at that time the youngest man ever elevated to the Bench in this State, except Judge Badger, who was elected at the age of twenty-six. He had ridden four circuits as Judge with great acceptance, when in 1832 he was elected by the Legislature to be Governor of the State over several competitors, and was inaugurated on the 1st day of January, 1832. Under the Constitution of 1776 the term of the Governor was only one year, and Gov. Swain was re-elected in 1833 and 1834 successively. Just previous to the close of his official term in 1835 he was elected President of the State University, under the following circumstances:

It is said that he would have continued in politics if the way had then been clear for him to go to the U. S. Senate; or that he would have continued in the law, could he then have returned to the bench. But the way to neither being at that time open to him, he had no desire to return to the practice of law, or to continue further in State politics, in which he had already attained the highest honors which his State had to bestow. Under these circumstances, he turned his eyes towards the Presidency of the University, vacant since January, 1835, by the death of the venerable and lamented Dr Joseph Caldwell. But great as was his reputation as lawyer and politician, his character as a scholar was by no means so established, nor had public attention been directed to him as a fit person to take charge of an institution of learning. He one day called his friend, Judge Nash, into the Executive office and told him frankly that he desired to be made President of the University; and seeing that the Judge did not express much approbation of the project, he asked him to consult with Judge Cameron, and if they two did not approve of it, he would abandon the idea. Nash promised to do so, and on meeting Judge Cameron, gave him his opinion that Swain would not do for the place. Cameron, however, dissented at once, saying that Swain was the very man; that though



it was true he was not a scholar, yet he had all the other necessary elements of success; and that the man who had shown he knew so well how to manage men, could not fail to know how to manage boys. So, at the next meeting of the Board of Trustees, Judge Cameron nominated him and secured his election to the Presidency. This closed his political and judicial career.

I have omitted to mention, however, in its chronological order, a most important part of that career. In 1835, whilst Governor, he was elected a delegate from the county of Buncombe to the Convention of that year which amended the Constitution. Perhaps no portion of his political service was of greater importance to the State than that which he rendered as a member of that Convention. His sagacity, liberality, and profound acquaintance with the statistics of the State, and with the history of the Constitutional principles of Government contributed very largely to the formation of that admirable instrument, the Constitution of 1835, a more excellent one than which, our surroundings considered, was never framed by any English speaking people. Few men in our annals have risen in life more rapidly than he, or sooner attained the highest honors in every branch of the Government, Legislative, Judicial and Executive. In making an estimate of his character and capacity in these offices, we shall be compelled, beyond doubt, to conclude that it required very substantial abilities to enable him thus to reach and sustain himself creditably in them all.

His practice as a lawyer was a very lucrative one to have been acquired at so early an age. As an evidence of the esteem in which his abilities and learning were held, he was, at the age of twenty-seven, when he had been a lawyer but four years, retained as counsel for the State of North Carolina with Geo. E. Badger, in a most complicated mass of litigation, involving the title to more land than was ever sued for under one title in our State (except perhaps, that instituted by the heirs of Lord Granville in 1804.) Several hundred thousand acres of land had been granted to William Cathcart, Huldeman, and Elseman, citizens of Pennsylvania, lying in the counties of Burke, Buncombe, Haywood, and Macon. Subsequently, these same lands in great part were sold in smaller lots to settler citizens by the State, under the belief that when patented originally by Cathcart and others, they were not subject to entry, for the reason that they were within the boundaries which had been reserved to the Indians by various treaties. One hundred suits in ejectment were brought against these settlers in the Circuit Court of the United States by the heirs of Cathcart. All these actions were dependent on similar facts, and each one involved the validity, accuracy and definite character of various surveys made at sundry different times during a period of nearly half a century previous thereto, under treaties between the State and the Cherokee Indians, and between the United States and the same Indian tribe. The State resolved to defend the titles it had given to its citizens, and employed Badger and Swain to contend with Mr. Gaston who



was for the plaintiffs—a very high compliment to both of them. Here was a field wherein Gov. Swain had no superior, and where his peculiar talents came specially into play. A complicated maze of long forgotten facts was to be resurrected from buried documents, dimly traced surveyors' lines and corners through hundreds of miles of tangled mountain forests were to be established, partly by the evidence of old grey-haired woodmen, and partly by the fading outlines of the rude maps and indistinct field-notes of the surveyors of that day; and old treaties and musty statutes were to be brought out of the dust and made to speak in behalf of the rights of our people.

In such a work his soul delighted, and to his faithful labors and indefatigable energy must the final success of the State be mainly attributed. For though he was put on the bench, and from the bench was made Governor before the test case was tried in 1832 and the victory won, he never ceased his labors in this behalf, and his official letter-book of that period is filled with evidences of his zeal and research. Judge Badger, who was as generous as he was great, and who followed the case up to the Supreme Court of the United States, where he was assisted by Mr. Webster, frankly acknowledged that the cause was won mainly by the careful preparation of Swain. Another circumstance connected with this litigation, worth the mention in these days is, that notwithstanding the vast amount of valuable work he had done already, yet because the cases were not concluded when he was made a judge, Gov. Swain voluntarily returned half of his retainer into the Treasury. All of which goes to show that in selecting him out of so many able and older lawyers to assist Mr. Badger, the State had chosen wisely indeed. There were giants in those days, and the giants were honest.

During his service in the Legislature no great or exciting issues were before the people, and his career there displays no extraordinary effort in any direction. He soon acquired, however, a high reputation for learning and industry in dealing with the practical questions of the day, among which then was the very vexed one of the ratio of representation in the Legislature between the East, where were many slaves, and the West, where there were few. This finally forced the calling of the Convention in 1835. It was, however, an era of great political importance, viewed in the light of subsequent events. The great political parties—Whig and Democratic—which have shaped the destinies of these United States for full half a century, were then crystallizing from the confused and crude opinions of our early American politics. All thinking men began about this period to range themselves with one or the other of the schools which undertook to construe the Constitution of the United States, to ascertain its meaning and its powers, and to define its relations with the States. A gigantic, and as it would seem, an endless task indeed. Swain sided with Adams, Clay and Webster, whose followers began to be called

Whigs. Of the prominent men of that day, who agreed with him, or with whom he agreed, were Gaston, Morehead, Badger, Mangum, Cherry, Graham, Stanly, Moore, Miller, Outlaw, Rayner, and many others. Of those who adhered to the school of Jefferson and Calhoun, were the venerable Macon, Ruffin, Haywood, Saunders, Branch, Edwards, Seawell, Shepherd, Donnell, Fisher, Craige, Venable, and many more of equal talents. It is not practicable to enumerate all the mighty men of that day, who controlled our affairs, and gave tone and character to our society. No State in the Union had a larger list of very able citizens, and we can pay no higher compliment to Gov. Swain than to say that he rose up among such, and was the peer of them all.

As before stated, he rode but four circuits as Judge. From all his decisions during that time, there came up but eighteen appeals. Of these, thirteen were sustained by the Supreme Court, consisting of Ruffin, Henderson and Hall, and in one other he was sustained by the dissenting opinion of Chief Justice Ruffin, leaving but four in which he was unanimously overruled. This, says Mr. Moore, who is now our highest living authority in matters relating to the law, is an evidence of judicial ability more satisfactory than could elsewhere have been furnished among our Judges, and no higher compliment could have been paid him. Mr. Moore also informs me that Swain was very popular as a Judge, even in those days when the only road to popularity in that office was the honest and able discharge of its exalted duties. In the contest for Judge, when he was elected over Judge Seawell, he first acquired a nickname which stuck to him till after he retired from politics. Repeated attempts with various candidates had been made to defeat Seawell, who was obnoxious to the party to which Swain belonged, but all these efforts had failed until his name was brought forward. "Then," said an enthusiastic member from Iredell, "we took up old *'warping bars'* from Buncombe, and warped him out." After the Governor became President of the University he lost this humorous and not ill-fitting *sobriquet*, and acquired from the College wits the geographical *descriptio personae*, "Old Bunk," which adhered to him through life.

The official letter-book of Gov. Swain during his administration shows that his time and labors were principally devoted to the questions of constitutional reform; the coast defences of North Carolina; the claims of the State against the general government; the removal and settlement of the Cherokee Indians; the adjustment of land titles in the West, and other matters of domestic concern.

During this time, however, many letters of literary and historic importance were written by him. There is found on those pages a letter written by Mr. Jno. C. Hamilton, of New York, son of Alexander Hamilton, propounding eleven inquiries relating to the History of North Carolina; more particularly with regard to the system of her Colonial and early State taxation; and the reasons of



certain action of her Convention in regard to the adoption of the Federal Constitution, and kindred topics. Gov. Swain's replies to these queries show a wonderful amount of information and research into the minuter sources of our early history; clearly indicating that he was possessed in a high degree of those peculiar talents which constitute the true historian. Most of his literary labor throughout his life was in this department, and his collections were especially rich in the early history of North Carolina. Who is there left now in our State able to use the material for its History which he had been accumulating through so many years? To this great work he had intended to devote the closing years of his life. What stores of information perished with him! He was the special vindicator of that much-abused and much-misunderstood class of men, the Regulators of our colonial times. No man in the State has done so much to clear their fame—few have been so competent. The papers contributed by him to the N. C. University Magazine on the subject, would form a volume if collected, and their great value is indicated by the numerous inquiries instituted for them by men in various States of the Union. His lecture before the Historical Society in 1852, may be said to have settled the question of the merits of the Regulators, and their service to liberty.

It was during his administration that the only white woman was executed who ever suffered the extreme penalty of the law in North Carolina. This was a Mrs. Silvers, of Burke county, hung for the murder of her husband. So far as my knowledge extends, but one other, a colored woman, has ever been hung in this State. As Governor of the State, in 1833, he laid the corner stone of the present capitol amid imposing ceremonies; a building designed with perhaps as pure and simple taste as any in America, and as solid and enduring as any in the world.

On the 12th of January, 1826, he was married to Miss Eleanor H. White, daughter of Wm. White, Secretary of State, and granddaughter of Gov. Caswell, a union productive of great domestic happiness to a man so fitted as he by nature, and by a life of unsullied purity to appreciate the ties of home, and the love of wife and children. By this lady there were born to him several children, of whom but three, two daughters and a son, ever reached maturity. His oldest son, David, who died in childhood, was a boy of great promise. His eldest child and daughter, Anne, died unmarried in 1867. The second daughter, and now only surviving child, Eleanor Hope, married Gen. S. D. Atkins, of Freeport, Illinois, where she now resides. The son, Richard Caswell, was killed a few years since, near his home in Illinois, being crushed to death by falling between two railroad cars while in motion. There is now no male representative of the name surviving.

From the time that Gov. Swain entered upon his duties as President of the University, his career is marked by few notable events of which his biographer can make mention. Although the work he did here was undoubtedly the great work of his life, it is



impossible for us to compute it. As with the silent forces of nature which we know to be the greatest that are exerted in this world, but which yet elude the grasp of our senses; so is it impossible for us to measure the power of the able and faithful teacher. The connections between moral cause and effect are much more difficult to trace than those between physical cause and effect, but although in either case the lines are dim the wise do not fail to see that they are there, and that the results are powerful. It is conceded that the imperceptible and benign force of light and heat which lifts the mighty oak out of the earth, and spreads its branches to the skies, is infinitely greater than that of the noisy whirlwind which prostrates it in the dust.

Says Mr. Herbert Spencer: "In every series of dependent changes, a small initial difference often works a marked difference in the results. The mode in which a particular breaker bursts on the beach may determine whether the seed of some foreign plant which it bears, is or is not stranded, may cause the presence or absence of this plant from the Flora of the land, and may so affect for millions of years in countless ways, the living creatures throughout the earth. The whole tenor of a life may be changed by a single word of advice, or a glance may determine an action which alters thoughts, feelings and deeds throughout a long series of years."

We know that the moral tone of a community is the main-spring of its glory or its shame; that that tone is to a great extent imparted by its educated men; we know, too, that no man has ever lived in North Carolina whose opportunities for thus influencing those who control her destinies have been greater than Gov. Swain's were; and I am quite sure that no man ever more diligently and earnestly improved those opportunities. There is this too, further and better to be said, that in the whole course of his contact with the young men of North Carolina and of the South at this University for a third of a century, the whole weight of every particle of influence which he possessed was exerted in behalf of good morals, good government, patriotism and religion. The sparks of good which he elicited, the trains of generous ambition which he set on fire, the number of young lives which his teachings have directed into the paths of virtue and knowledge, and colored with the hues of heaven, who but God shall tell? If we could see events and analyse destinies as only the Most High can, how wondrous would appear the harvest of David L. Swain's sowing! How many great thoughts worked out in the still watches of the night; how many noble orations in the Forum stirring the hearts of men; how many eloquent and momentous discourses in the pulpit; how many bold strokes of patriotic statesmanship; how many daring deeds and sublime deaths on bloody fields of battle; how many good and generous and honest things done in secret; how many evil things and sore temptations resisted; in short, how much of that which constitutes the public and private virtue of our people, the pros-

perity, the honor, and the glory of our State might not be traced to the initial inspiration of David L. Swain! Say what you will for the mighty things done by the mighty ones of earth, but here is the truest honor and renown.

For whether there be prophecies, they shall fail; whether there be tongues, they shall cease; whether there be knowledge, it shall vanish away; but he that helps to shape an immortal soul, and fit it for the service of Heaven and humanity, verily his memory shall endure until that which is perfect is come.

How well do I remember the many occasions during my sojourn at the University, when he as my preceptor, esteeming such influences of greater importance to the class than the texts of the lessons, would for the time give his whole soul to the stirring up of these generous and emulous sentiments in the hearts of his pupils. The very first recitation in which I ever appeared before him was one such. I shall never, never forget it. In 1851, I entered the University, and joined the senior class as an irregular. This first lesson was in Constitutional Law. A single general question was asked and answered as to the subject in hand, and then he began to discourse of Chancellor Kent, whose treatise we were studying; from Kent he went to Story, from Story to Marshall, repeating anecdotes of the great Americans who had framed and interpreted our organic law; and touching upon the debate between Hayne and Webster. From these, he went back and back to the men and the times when the great seminal principles of Anglo-Saxon liberty were eliminated from feudal chaos, and placed one by one as stones polished by the genius of the wise, and cemented by the blood of the brave, in the walls of the temple of human freedom. He told us of the eloquence of Burke, of the genius of Chatham; he took us into the prison of Elliott and went with us to the death-bed of Hampden; into the closet with Coke and Seargent Maynard; and to the Forum where Somers spoke; to the deck of the Brill where William, the deliverer, stood as he gazed upon the shores of England; to the scaffolds of Sydney and of our own glorious Raleigh. Warming as he went with the glowing theme, walking up and down the recitation room, which was then the Library of the "old South," with long and awkward strides, heaving those heavy passionate sighs, which were always with him the witnesses of deep emotion, he would now and then stop, reach down from its shelf a volume of some old Poet, and read with trembling voice some grand and glowing words addressed to man's truest ambition, that thrilled our souls like a song of the chief musician. A profound silence was evidence of the deep attention of the class, and the hour passed almost before we knew it had begun.

I afterwards learned that this lecture was intended for my benefit, as I was a stranger to the class and had entered it under some disadvantages, and in his kindness of heart he supposed I needed some encouragement. But such were frequently given us. Nor



were these digressions from the chief business of the hour always of a serious nature. The gayest wit and brightest humor often illumined the moments when not content with putting forth his own conceits, he exerted himself to draw forth those of the class, and if he succeeded sometimes in bringing forth a repartee that struck *pat* upon his own head, no one enjoyed it more than himself. Like a true humorist and story teller he enjoyed the taking as well as the giving, with the utmost good fellowship.

From the day that Gov. Swain became the chief officer of the University his life was literally devoted to its interests. The same traits of character which had hitherto secured his success in life were especially needed here. His prudence, his cautious far reaching policy, his constructive ability, his insight into character, and remarkable faculty for suggesting valuable work to others and setting them at it, his forbearance, charity, self-control—these were all brought into play with marked results. The reputation of the Institution, and the number of its students steadily and continually increased. In 1835, there were not over 90 in attendance. In 1860, there were nearly 500.

Gov. Swain was eminently a progressive man. He loved to suggest, and to see his suggestions taken up and carried out. What a number of improvements the record of his management here shows that he inaugurated! The excellent system of street-draining in Chapel Hill, by stone culverts, the planting of elms, the enclosing of the college grounds, and their improvement and ornamentation with shrubbery; all these were planned by him, and executed under Dr. Mitchell's superintendance. He first employed a college gardener. He was the founder of the State Historical Society. He established, and assisted largely to support the University Magazine, and was himself one of its most regular and valued contributors. He was one of the foremost friends of the N. C. Central R. R., and offered to be one of a number to take the whole stock at once. He first introduced the study of the Bible into college, and of Constitutional and International Law. And he was an earnest advocate for humanizing the course of study, making science more popular and more prominent.

He was always deeply interested in the prosperity of the village of Chapel Hill, believing, and justly, that its welfare was identical with that of the college. Circumstances since his death have amply proved the truth of this. He had ever a kind word, and a charitable estimate for every man, woman and child in the place.

Thirty-three years of his best days, and the sincerest labors of his existence were spent here in the training of young men. As yet, no monument has been erected in these grounds to commemorate his virtues and his labors. The valley of humiliation—nay, of the shadow of Death—through which our beloved Institution has passed, in which she was despoiled of everything but her glorious memories, and I trust, her gratitude, is the apology which can be offered for this seeming, but not real, neglect. A simple tablet to



his memory might well be inserted in any of these walls, and fitly written thereon might be the words found in the epitaph of Sir Christopher Wren in the crypt of St. Paul's:

*Lector, si monumentum requiris,  
Circumspice!*

In very truth the University may be looked upon as his monument. It emerged from swaddling clothes under President Caldwell; it passed through a vigorous youth into a splendid manhood under President Swain. But whilst the stranger stands upon the earth and beholds the monument of the great architect in the magnificent pile whose tall fane overtops the loftiest domes and spires of the greatest city in the world, he who would fully comprehend the great work of David Swain's life would have to stand upon the battlements of heaven, and survey the moral world with an angel's ken.

I know of no man of his day who was surrounded by so many inducements to return to the paths leading to highest distinction in active public life, who so completely put them all away, and adhered so strictly to the work which he had accepted here. As we have seen, his career as a politician and a lawyer had been remarkably successful while he was yet at a very early age, and if he had desired further honors he had all the qualities which are supposed to fit men for the attainment of these objects. Had he been possessed of a passion to accumulate wealth, almost any other course in life would have fed this desire more than the Presidency of the University. From all these fields of distinction and of wealth, the public sentiment of his time desired that the officers, and especially the chief officers of the University should be isolated. This expectation Gov. Swain filled, and more than filled. For the good of the Institution, he not only laid aside whatever of ambition he may have had in the directions usually chosen by able men, but he subordinated many cherished convictions, and refrained from the doing many things which he no doubt most ardently desired to do. In the nature of things, this course, so essential to the success of an Institution entirely dependent on popular favor, begot many misconceptions of his character. It has been said that he was undecided in his opinions, and timid in the expression and maintenance of them. I believe such an impression does his memory great injustice. His nature was essentially gentle, his manners were mild, his temper was cautious; but I cannot believe that he was either timid or undecided. I had the honor—and I consider it both an honor and a happy fortune—to be on terms of confidential intimacy with him from my first entrance into the University until his death. We were in the utmost accord on all questions pertaining to Church and State, and during my subsequent career—especially in those troublous years of war—I consulted him more frequently perhaps than any other man in the State, except Gov. Graham. So affectionately was his interest in

my welfare always manifested, that many people supposed we were relatives, and I have frequently been asked if such were not the fact.

This state of our relations gave me ample opportunity to know him well, and I believe I can say with entire truth that whilst his course of life and surroundings necessarily made him tolerant and even liberal towards those who disagreed with him, he was as positive in his opinions, religious and political, and as firm in his adherence to them, as any man of my acquaintance. The unpopularity of which he *was* afraid, and which produced that cautious habit which some men mistook for timidity, pertained to the Institution which he had in charge, and not to himself. And as the State reaped the benefit of his prudence in the increased prosperity of the University, the injustice of charging this to a defect of character becomes all the more apparent.

The remarkable character of his memory served him in good stead in many ways through life. As a lawyer it had been invaluable, not only enabling him to cite cases with great readiness to the court, but in trials before juries, without taking notes he could repeat the testimony of all the witnesses examined, no matter how many, nor how long the trial continued.

Perhaps he was more thoroughly versed in biography than any man who has ever lived in America; certainly North Carolina never produced his equal in this respect. His wonderful memory, combined with great industry, was stimulated by a genuine love of genealogical studies. Almost the first question he would ask a student on meeting him, if indeed he did not already know, was, "Who is your father?" On being told, by a few quick questions he would possess himself of the boy's lineage, and would never forget it. Generally, however, the boys would be utterly astounded on presenting themselves, to find that the Governor knew more of them and their families than they did themselves. It was equally so with all strangers with whom he met, and frequently ludicrous scenes resulted from his insatiable desire to trace pedigree. Whilst a delegate from this State to the Montgomery Convention, which organized the Confederacy in 1861, he was introduced to a distinguished gentleman, and without letting go his hand which he took to shake, he stopped in the midst of the flow of ceremonious speech, and to the no small amusement of the bystanders asked him: "Sir, was not your mother's maiden name Jones?" I doubt if there is a single family on the Atlantic coast, whose members have borne any prominent part in the affairs of the country, in regard to which he did not have more or less of information, and could have told all about its leading representatives at least. With a very little help indeed he could have supplied a "Doomsday Book" of North Carolina, by far more accurate than that of the Conqueror. It was generally understood at Chapel Hill that if you wanted to know *what anything was*, you went to Dr. Mitchell; if you wanted to know *who anybody was*, you went to Gov. Swain.



And as he never forgot face, or name, or lineage of the man once known to him, so he never forgot a kindness or a favor once done to him or his, and loved to continue such memories, and extend the chain of friendship to second and third generations. "Thine own, and thy father's friend forsake not," was one of his favorite maxims. He was utterly incapable of resisting an appeal for mercy, or a tale of distress. This was, I believe, the only objection urged against his conduct on the bench—his leniency to criminals. It was an objection to his honor, if his mercy was at all tempered with discretion, as I doubt not it was. So too arose the only serious trouble he ever had with the Trustees of the University.

Stringent measures had been resolved upon by the Board towards dissipation and insubordination among the students, which regulations were not rigidly enforced by Gov. Swain. So great was his forbearance with the hot blood of youth, and so strong his faith that time would cure these early follies, and enable the better natures of the young men to assert themselves, that he suffered the Draconian code of the Trustees to lie dormant, whilst he lectured, reproved, and exhorted. He shrank from branding the opening years of a young life with sentence of dismissal or expulsion, and would condescend to an erring boy while there remained the last hope of reform. In such cases his judgment not unfrequently came into conflict with the opinions of other members of the Faculty, and finally so irritated the Trustees that they passed a resolution of censure upon him, which was publicly read from the platform of the Chapel by no less a personage than Gov. Iredell. Quite a scene was excited on this occasion, and when Gov. Swain arose and replied in his own vindication, it was with much emotion, not unmingled with indignation; "More," says Mr. Cameron, who was present, "than I ever knew him to exhibit on any occasion, before or since."

The lapse of time has shown this policy to have been the best and wisest not only for the young men themselves, but for the Institution, and for his own fame. Who of all the hundreds to whom he thus stood in the attitude of a father, kind, and long-suffering, and hopeful, but now recalls him with affection and gratitude; how many a one remembers his college life at Chapel Hill as the turning point of his life where he was won by undeserved kindness to paths of honor, not repelled by judicial severity, and feels in his heart that under God he owes all that he has of fortune, friends or fame to this Institution and its wise head!

While the Governor remained in political life his extraordinary memory of persons, and names and events gave him a wonderful advantage. There is no more successful way of making ones self agreeable to the multitude than by knowing men when you meet them, and calling them by name. Not to recognize a man who has stood your friend, and fought your battles at the polls, is always an omission of evil omen in his eyes, and a bad memory for names will not always apologize for what seems to be neglect. Many and



many are the shifts of the politician to avoid this fatal predicament. But I venture to say that Gov. Swain was never caught in such a way. Once being introduced, he never forgot his man, nor his family connections. After the surrender of Gen. Lee in 1865, when Gen. Sherman had begun his march upon Raleigh, at the earnest request of Mr. B. F. Moore and Mr. Kenneth Rayner, I sent an embassy to meet the Federal Commander, and obtain what terms were possible for the surrender of the Capital of the State.

Having confidence in their firmness and discretion, I selected Govs. Swain and Graham, who left in a few moments after their appointment, on a special train, accompanied by Dr. Edward Warren, Surgeon General of the State. I remarked after their departure with my letter, as one reason for selecting him, that I had no doubt Gov. Swain would find plenty of acquaintances in the enemy's camp, or at least would prove that he knew the fathers of many of the officers. And so it was; on his arrival at headquarters, he not only claimed Gen. Sherman as an old correspondent, and fellow-college-president, but immediately seized upon two or three members of the staff whose parents and pedigree he knew, and was soon at home among them.

And here perhaps it is not improper in me to correct a statement made by Gen. Sherman in his memoirs, in relation to this embassy. Referring to it, that General says: "They had come with a flag of truce, to which they were not entitled; still, in the interests of peace, I respected it, and permitted them to return to Raleigh with their locomotive to assure the Governor (of the State) and the people, that the war was substantially over, and that I wanted the civil authorities to remain in the execution of their office till the pleasure of the President could be ascertained. On reaching Raleigh, I found these same gentlemen with Messrs. Bragg, Badger, Holden and others, but Gov. Vance had fled, and could not be prevailed on to return, because he feared arrest and imprisonment."

This statement is uncandid, not to say untruthful, by implication at least. These gentlemen *had* a right to the flag of truce, for it was sent with the consent, and by permission of Gen. Hardee, commanding the Confederate forces in the absence of Gen. Johnston, and should not have been permitted to enter the enemy's lines if the bearers were not entitled to carry it. It was *not* respected, for it was fired upon by Kilpatrick's men, and "captured" as they claimed, and the gentlemen composing the embassy were promptly and skillfully robbed of their surplus personalty, and were conducted as "*prisoners*" to Gen. Sherman's headquarters. They were *not* permitted promptly, as the statement implies, to return with their locomotive, with assurances of peace and protection, but were detained there the entire day and night after their arrival within Sherman's lines, until he no doubt knew that Raleigh was entirely uncovered by Johnston's troops. Of course, all the officers of the State government who did not wish to surrender at discretion, left with the Confederate troops, for, the embassy not

returning and no news of its fate, except that it had been captured, and no reply to my letter being received, they had no assurance of protection. Gov. Swain states in his address at the opening of Tucker Hall, that on the return of the embassy that memorable morning, but a few minutes in advance of the Federal troops, the city was shrouded in silence and gloom, except for the presence of a few marauding stragglers from Wheeler's cavalry, showing conclusively that the city was uncovered when he arrived with Sherman's message. It was some days afterwards, and at Hillsboro, when I learned from Gov. Graham the result of his mission, and it was then far too late for me, consistently with other duties, to accept of Sherman's offer of protection, had any one convinced me that it was best to do so, which indeed no one did. My inclinations, I confess, were to be with that little army, fully one-third of whom were North Carolinians, until they laid down their arms. I am happy to reflect that I shared their fate to the last.

This much to vindicate the truth of History. Throughout this whole transaction, as many gentlemen have testified to me, Gov. Swain's bearing was, in the highest degree, courageous, discreet and manly.

During the war his efforts had mainly been directed to keeping the college alive, for such was the impetuosity with which the call to arms was obeyed, that of the eighty members of which the Freshman class consisted in 1860, but *one* (in delicate health) remained to pursue his studies. (Of the senior class of that date not one had remained out of the army, and fully one-fourth of them fell in battle.) Seven members of the Faculty volunteered, and of them *five* returned no more.

Gov. Swain appealed to the Confederate government more than once to prevent the handful of college boys left, from being drafted. President Davis himself seconded these efforts in the earlier years of the war, declaring that "the *seed-corn* should not be ground up." But as the exigencies of the country increased, this wisdom was lost sight of, the collegians were again and again called upon, till at the time of Lee's surrender, there were but about a dozen here still keeping up the name and forms of a college. But even while the village and University were occupied by four thousand Michigan cavalry, the old bell was rung daily, prayers were held, and the University was *kept going*. The Governor took a pride in this, and hoped that he was to tell it many years after. But this long and useful life, devoted to the best interests of his country and his age, was nearing its close. Only three years yet remained to him, and these were devoted by him to earnest, unceasing endeavors to reinstate the University pecuniarily, and to recall its former patronage. Darker days, however, were in store for it, which he in the good Providence of God was not to be permitted to see.

In the summer of 1868, the State passing under a new Constitution, and an entire change of Government, the University also fell into new hands, whose first action was to request the resignation



of the President and Faculty, most of whom had grown grey in service to the State. A guard of negroes were sent to take possession, and these halls were closed. Gov. Swain was then preparing for a visit to Buncombe. On the 11th day of August, while driving in the neighborhood of Chapel Hill with Prof. Fetter, he was thrown from the buggy, and brought home painfully, but as was then supposed, not seriously injured. Confined to his bed for about two weeks, he appeared to be recovering, when on the morning of the 27th he suddenly fainted, and expired without pain.

He was in the full possession of all his faculties up to the last moment, and died at peace with all the world; a fitting close to a life of beneficence and integrity. The manner of his death afforded a melancholy coincidence taken with those of his two oldest friends and co-laborers in the Faculty who had preceded him over the river, and were "resting under the shade of the trees." Dr. Elisha Mitchell perished by falling down a precipice in the cataracts of the Black Mountain, June 27, 1857. Dr. James Phillips sank down suddenly on this rostrum while in the act of conducting morning prayers, and died without a struggle, March 14th, 1867. Thus all of these eminent men, worthy servants of christianity and civilization died with some degree of suddenness, or violence.

A just estimate of the talents and character of Gov. Swain, for reasons already indicated, is not easily made plain to popular apprehension. By the world the term "great" is variously applied and misapplied. It is often withheld when it is most richly deserved; not, because of the injustice of cotemporaries, for personal prejudice rarely outlives a generation, but because men rarely appreciate the full extent and character of the labors of a lifetime. And especially is this true when that life has been mainly spent in the planting of moral seeds below the surface, which perhaps for years make no great show of the harvest which is sure to come. Generations are sometimes required to elapse before the world can see the golden sheaves which cover and adorn the landscape, the result of that patient and judicious planting.

They who in life are followed by the noisy plaudits of the crowd, who fill the largest space in the eyes of their cotemporaries, and seem to tower far above their fellows are not always found to have their reputation built on the securest foundations, nor to have left their mark on the age in which they lived. Erasmus was esteemed by his generation a much greater man than Luther. One of the most remarkable men of his century, few indeed have equalled him in keenness of intellect, and in depth and extent of learning. Yet viewed now in the light of their labors, and the value and significance of their impression on the world, what a veritable shadow he was by the side of the plainer, less learned, but downright monk! Erasmus is known to the scholars who search for his name and works in the cyclopædias; the name and the spirit of Luther pervade and affect the civilization of the whole world.



On the 21st of February, 1677, there died in a small house in the Hague a man whose greatness could not be measured, says his biographer, until humanity had moved to the proper prospective point at the distance of more than a century. The view enlarged as time rolled on, as it does to men climbing high mountains; in 1877, the world agrees to number him among the undoubted sons of genius, and benefactors of mankind. His admirers erect a monument to his memory just two hundred years after his death in the same city where he was persecuted, excommunicated, and his works destroyed. His name was Spinoza. Modest, and pure, and upright, he had the misfortune to live two hundred years before his age, and to put forth fruits of genius which his fellows could not comprehend, and so they stamped him and them into dust as being unorthodox. Two centuries of progress have brought the world up to where Spinoza died, and it builds him a monument. At last, his work is seen.

The Earl of Murray, Lord Regent of Scotland, was not esteemed a great man in his day. His behaviour was modest, his abilities were apparently but moderate, and for more than two hundred years he has figured in History as an ordinary man, overlaid by the more violent and intriguing spirits of his time, and his character obscured and distorted by the glamour which surrounds the name of his beauteous but abandoned sister and murderess, Queen Mary. And yet when two centuries afterwards the spirit of philosophic History comes to trace cause and effect, and to show the result of his life's work upon Protestant Christianity and what he contributed to the domination of the English-speaking races, we agree at once with Mr. Froude that he was in truth one of the best and greatest of men, a benefactor of mankind.

And so it may be said of Bunyan, of Wesley and of many more, whose beginnings were esteemed but of small account, but whose fame has continued to grow continually brighter and brighter, as the world has been forced to see how wisely they builded.

In many senses of the term Gov. Swain was not a great man. As an author, though a man of letters, he neither achieved nor attempted anything lasting. As a politician, though he rose rapidly to the highest honors of his native State, he did not strikingly impress himself upon his times by any great speech, nor by any grand stroke of policy. In this respect he was inferior to many of his cotemporaries who constituted, perhaps, the brightest cluster of names in our annals. As a lawyer and a judge, he occupied comparatively about the same position; and as a scholar he was not to be distinguished, being inferior to several of his co-laborers in the University.

But in many things he was entitled to be called great, if we mean by that term that he so used the faculties he possessed that he raised himself beyond and above the great mass of his fellows. In him there was a rounded fullness of the qualities, intellectual and moral, which constitute the excellence of manhood, in a degree

never excelled by any citizen of North Carolina whom I have personally known, except by Wm. A. Graham. If there was in Swain no one grand quality of intellect which lifted him out of comparison with any but the demi-gods of our race, neither was there any element so wanting as to sink him into or below the common mass. If there were in him no Himalayan peaks of Genius piercing into the regions of everlasting frost and ice, neither were there any yawning chasms or slimy pools below the tide waters of mediocrity. He rose from the plain of his fellow men, like the Alleghanies in whose bosom he was born, by regular and easy gradations, so easy that you know not how high you are until you turn to gaze backward—every step surrounded by beauty and fertility until he rested high over all the land. If there be those who singly tower above him in gifts, or attainments, or distinctions, there are none whom as a whole we can contemplate with more interest, affection and admiration, none whose work for North Carolina will prove to be more valuable, or more lasting, or more important to future generations; none to whom, at the great final review, the greeting may be more heartily addressed: "*Servant of God, well done!*"

No estimate of Gov. Swain's walk through life should omit the consideration of his christian character. It was especially marked by *catholicity of feeling* towards all good men of whatever name. He was accustomed to refer this to the circumstances of his bringing up. He would say: "My father was a Presbyterian Elder, and an Arminian, my mother was Methodist and a Calvinist, who loved and studied Scott's commentary. Their house was the home for preachers of all sorts west of the Blue Ridge. Bishop Asbury blessed me when a child. Mr. Newton, a Presbyterian, taught me when a boy, and Humphrey Posey, a Baptist, used to pray for me when a youth. So I love all who show that they are christians."

On his death-bed, he spoke often of "the communion of Saints" with one another, and with their Head.

He was a decided Presbyterian, however; he admired what he called "the symmetry" of the ecclesiastical system of his church; he dwelt on its history with great delight, and was accustomed to find support for his soul in times of deep distress in its interpretations of the bible. He was a praying man, and not ashamed to be known as such. He first introduced the practice of opening the regular meetings of the Faculty with prayer. The night before he died, he said of the Lord's prayer: "The oftener I use it the more precious it is to me; it contains a whole body of divinity."

In private life he was most upright, kind, social and hospitable. An excellent financier, he left a handsome estate, even "after the war." He had a proper conception of the value of wealth, and all his life practised a judicious economy, but he knew well both how to lend and how to give. His conversation was delightfully interesting and instructive, replete with anecdote, genial humor, historical incident, or literary quotation. Few men of his associates equalled him in these respects, even after the infirmity of deafness had cut him off from much social enjoyment.

His remains lie buried in Oakwood Cemetery near Raleigh, and close beside the sleeping soldiers of the Confederacy, and the soil of our State holds the dust of no son who loved her more, or served her better. Peaceful be his rest, as he waits for the clear breaking of the day over the brow of the eternal hills.

The daisies prank thy grassy grave,  
Above, the dark pine branches wave;  
Sleep on.  
Below, the merry runnel sings,  
And swallows sweep with glancing wings;  
Sleep on, old friend, sleep on.  
Calm as a summer sea at rest,  
Thy meek hands folded on thy breast,  
Sleep on.  
Hushed into stillness life's sharp pain,  
Naught but the pattering of the rain,  
Sleep on, dear friend, sleep on.









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