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## JUSTICE SAMUEL FREEMAN MILLER.

BY HON. HENRY STRONG.

[During the past year Mr. Strong, formerly of Burlington, but now of Wisconsin, gave a commission to Mr. Charles Noel Flagg, a distinguished artist of New York City, to paint a portrait of Justice Miller, who resided in Keokuk at the time of his appointment by Abraham Lincoln, in the year 1862, to the Supreme Bench of the United States. On the 21st of November, Mr. Strong presented this portrait to the State of Iowa, in the Executive rooms of our Capitol. It was expected that His Excellency Governor Horace Boies would be present to accept this portrait, but he was at that time confined to his home in Waterloo, through serious illness. The portrait was therefore received by Hon. William M. McFarland, Secretary of State. Ex-Governor Lucius Fairchild, of Wisconsin, Hon. Messrs. John Mahin, John F. Lacey, W. T. Shaw, E. H. Conger, A. L. Swalm, D. N. Richardson, Sam. M. Clark, C. H. Gatch, Tac Hussey, W. T. Smith, Judges Given and Granger, of our Supreme Court, Judge John S. Woolson, of the United States District Court, and many other distinguished citizens, were present. Ex-Chief Justice George G. Wright took the chair at 2:30 p. m. After brief tributes to his old-time friends, Justice Miller and Henry Strong, Judge Wright introduced the last-named gentleman to the audience. Mr. Strong spoke as follows:]

When Mr. Charles Aldrich, the intelligent and enterprising curator of the Historical Department of Iowa, whose zeal in promoting this interesting and most important branch of State education, and thus stimulating a just and commendable State pride, must enlist the sympathy and command the earnest support of all good citizens, wrote me saying that he wished to procure for the State a portrait of Justice Miller to place by the side of those of the other men who have largely contributed to make her history, though so brief, yet so honorable, and bespeaking my aid in this behalf, it required no argument to convince me of my duty to the young commonwealth that had been always kind to me, and where I had laid the foundation of whatever small measure of suc-

A CORRECTION. The word "mercy" in the 2d line from the top of page 242 should be "memory".

cess I may have attained in professional and business life; and to the mercy of him, her most distinguished citizen, who had permitted me to be "the Roman friend of Rome's least mortal mind"—a friendship cemented by nearly forty years, on the one side, of unflinching kindness and unmerited appreciation, on the other, of ever increasing affectionate admiration.

There is so little personal incident in the life of an American jurist, however eminent, even though it might justly be said of him as Bacon said of Coke, "Without Lord C<sup>o</sup>ke the law by this time would have been like a ship without ballast," that his career necessarily presents but little to catch the popular eye or interest the ordinary reader. And yet, in American governments, both Federal and State, limited as they are by written constitutions defining the powers of the several departments—legislative, executive and judicial—and under these constitutions the judiciary department having the authority to determine what their respective limits are, the decisions of the highest State and Federal courts upon constitutional questions must of necessity have to do with many quasi-political problems, and cover more or less of National history.

In no other country, ancient or modern, is there to be found any parallel in political consequence and profound public interest to the constitutional decisions of the Supreme Court of the United States.

It would be quite impossible under a system of federation, embracing so many States that are wholly independent of each other and of the General Government, except as that independence is limited by the National Constitution, that there should exist such entire harmony of opinion upon a multitude of questions affecting State authority and the political and commercial rights of the citizens, as not very often to call for the intervention of the Federal judiciary in their decision. Possessing, as it does, a sort of veto power over both National and State legislation, the Supreme Court of the United States is the most unique tribunal in political history. Clothed with an authority which Jefferson and

other eminent statesmen of the early period regarded as despotic and dangerous and wholly incompatible with popular government, it is the constitutional arbiter in all those controversies of a mixed political and judicial character arising under a written constitution, which in other countries are determined by the executive and legislative departments of the government. It has a right to decide what Congress may or may not do, and how far the authority of the Executive extends. It adjudicates every legal question arising under an act of Congress, whatever its character. It goes farther, and defines its own powers derived under the Constitution. Therefore, a Judge upon the Supreme Bench of the United States is never wholly removed from the sphere of National and State politics, and his character and talents are known and appreciated by those who have the conduct of public affairs. Nevertheless, as a whole, his career is too exclusively professional to interest the general reader, and it is almost sad to reflect how little is known of the truly great men who have sat upon the Supreme Court bench, and whose talents, learning and foresight have so greatly contributed to the wonderful success of the political experiment embodied in the Federal Constitution, the wise adaptation of which, for the government of the American people, a century's experience has confirmed. Only the really intelligent student of political history knows that the patriotic services of Hamilton, Madison and Webster have had their equally important counterpart in those of Marshall, Story and Miller. The public ear caught, and the public mind has treasured the utterances from the early political forum, while the profound discussions of the jurist, confined of necessity to the consultation room of the court, can never be known, except as they find expression in the written opinions of that court, which few persons are qualified to value or understand. Even the names of many of the Judges, whose unappreciated talents have acquired for the Supreme Court of the United States its reputation as the greatest judicial tribunal in the world, are, alas! forgotten.

It has been often said that the most valuable service the elder Adams rendered to the Nation was the appointment of the young Virginia lawyer, John Marshall, to the Chief Justiceship of the Supreme Court of the United States. Himself an extreme Federalist, passing over men eminent at the bar of his own Federal New England, he went to the home of Jefferson, his political enemy, who had just been elected his successor to the Presidency, and chose for by far the most important office in his gift the man who became one of the greatest judicial magistrates the world has ever known—the judge whose profound and just analysis of the powers invested by the Constitution in the three estates constituting the Federal Government, has, ever since, and almost without question, been accepted as their political chart by the executive, the legislature and the judiciary: When President Lincoln crossed the Mississippi and appointed to the Supreme Court bench a lawyer of whom few persons outside of his State had ever heard, he wrought better than he knew, and chose the man, of all others, fitted by nature for that high office and for the great responsibilities that were soon to devolve upon him and his associates.

Among the eminent men who have adorned the American bench, I may say there have been none, except Chief Justice Marshall, whose opinions have been more potent in their influence upon the judicial history of the country, especially for the last quarter of a century, than those of Justice Miller. That influence has been felt and acknowledged by his associates upon the bench, and is generally recognized by the public. Called to the bench at a time when the most formidable attempted revolution in history was in progress, and nearly 2,000,000 of men were under arms to destroy and to defend the American Union, Justice Miller lived to witness the overthrow of that rebellion, and to take a leading part in the adjustment of the authority of the States in the Federal Government, under the broader theory of personal liberty and civil rights declared in the amendments to the Constitution, securing citizenship to five millions of emancipated

slaves, and hardly less important, in the new industrial era, in establishing upon a liberal and secure basis the limits of municipal authority in relation to individual and corporate enterprises. For it has become almost dangerously apparent that in consequence of the wonderful development of such enterprises, so complex and far-reaching, boldly entering by means of the combination of capital under corporate forms, upon undertakings which would drain an imperial treasury, and affecting interstate commerce and state authority, the highest courts have been called upon to solve the most difficult problems, involving mixed questions of commercial law and political power, in a hitherto largely unexplored region, full of uncertainty and danger, and requiring the first order of judicial ability for their solution. The equally profound and lucid reasoning, carrying with it at once admiration and conviction, to be found in the opinions of the court in *Marbury vs. Madison*, *Gibbons vs. Ogden*, *McCullough vs. State of Maryland*, and in the *Dartmouth College* case, finds a parallel in the opinions of Justice Miller in *Buck vs. Colbath*, the *United States vs. Lee*, *Hepburn vs. Griswold*, the *Loan Association vs. Topeka*, the so-called slaughter house cases, and others I may not stop to name. The most important judgments of Chief Justice Marshall we all hope may stand as a guide alike of statesman and jurist, so long as the Government shall endure. They imbue the mind with the soundest principles of political action, while they delight the intellect with the simple logic of their argument. They are judicial corollaries of the demonstrations of *The Federalist*, maintaining the rights of the citizen and authority of the State, as embodied by Washington, Hamilton, Madison and their associates in a written constitution, an harmonious system of federation, preserving alike National supremacy and State independence. Many of the opinions of Justice Miller, by their comprehensive statement of personal rights and governmental control, at once recall the great Chief Justice, so that now, in reading the judgments of either, we almost distinctively associate the two great jurists in our minds.

It has been fortunate for the country that the eminent Judges, whose duty it is to interpret the National Constitution, almost without regard to their early party affiliations, have recognized the necessity of unquestioned authority in all government. The importance of this historical fact becomes every day more increasingly apparent under the obvious tendency to unsound, if not anarchical theories, in all popular governments. The naturally conservative temper of the judicial mind adds immensely to the value of the Supreme Court, and its influence upon political administration. Even the young and ardent Jeffersonian Story, had not been long upon the Supreme bench, when he wrote: "Let us extend the National authority over the whole extent of power granted by the Constitution; let us have great military and naval schools; an adequate regular army; an ample permanent navy; a National bank; \* \* \* judicial courts which shall embrace the whole constitutional powers; National notaries public and National justices of the peace; and thus prevent the possibility of division by creating great National interests." Strange language this to come from the mouth of a Federal Judge, appointed by Jefferson's successor and disciple—the Jefferson who was listening with delight to Marat reading the Jacobinical Koran of Rousseau in the streets of Paris to the young lawyers of France, and proclaiming to the world a political Utopia based upon the "natural contract," formulated by the son of the watchmaker of Geneva, at the very time that Hamilton, with his marvelous intellect and sleepless energy, was moulding the weak and wavering Confederacy of the States into the glorious Union of the people—the Jefferson who inspired the Kentucky and Virginia resolutions, thus paving the way to the nullification of 1832 and the rebellion of 1861, and who said, "God forbid that we should ever be twenty years without a rebellion; if the people take up arms against the Government, let them be set right by facts; pardon and pacify them"—the Jefferson whose political idiosyncrasy led him to say, "Those societies, like the Indians, that live without gov-

ernment, enjoy an infinitely greater degree of happiness than those who live under any European government." It seems marvelous strange, I say, that the disciple of such a political leader should, having been elevated to the Federal bench, and feeling the influence of that high tribunal, so soon become the wise and conservative jurist, the illustrious Judge Story, of American history.

The young statesmen of Iowa may not all worship at the shrine of Hamilton, who distrusted the extreme democracy of the masses, the *vox populi, vox dei* maxim of the demagogue, but they should temper the sophisms of the popular rostrum with the saving reason and judgment of the judicial forum. They may, and they should, impress their minds with the sound political theories, and the enlarging and enlightening wisdom to be found in the constitutional opinions of their great fellow citizen, whose memory we have met to-day to honor.

I remember, many years ago, during the period of reconstruction, walking down the avenue in Washington with Chief Justice Chase. We were speaking of the characteristics of the members of the Supreme Court bench, past and present; their judicial tendencies and their influence upon the court. He then remarked: "Beyond question, the dominant personality now upon the bench, whose mental force and individuality are felt by the court more than any other, is Justice Miller, who is, by nature, by intellectual constitution, a great jurist." As corroborating this estimate of the Chief Justice, it is interesting to note, and as showing the profoundness of his reasoning, and the far-reaching influence of his mind, in how many important cases the dissenting opinion of Justice Miller, afterwards, in cases involving the same constitutional questions, became the judgment of the court—notably so in the case of *Hepburn vs. Griswold*, involving the legal tender of the obligations of the United States, and in the *Reading R. R. Co. vs. Pennsylvania*, touching the power of Congress to regulate commerce between the States. His always clear conception of the situa-



tion and its requirements, his foresight of results and consequences, his fearless statement of judicial duty, recall the independence of Mansfield, who by his marvelous judgments, then often questioned, but later universally approved, anticipating the growth of English commerce, and adopting the juster reasoning of the civil law, made possible the England of to-day.

But I may not, on this occasion, and in this presence, refer at greater length to those masterly constitutional expositions on which our friend reared the enduring monument of his fame. I only share your admiration and feel your appreciation of his great services to the country, and your just pride that this fair young State, then so recently admitted to the Union, furnished to the Nation its most distinguished jurist, to whom, by two Chief Justices and their associates, was more often assigned the responsible duty of expressing the opinion of the court in cases involving the construction of the Federal Constitution than to any other Judge, not excepting Marshall, who ever sat upon that bench.

I feel to-day as I know you must feel, that no commonwealth can afford to let such a citizen, who, when living, has conferred most honor upon the State, leave forever the field of his great achievements, where he was known and honored and loved, without preserving, as best she may, the form and features of his living presence. Alas! the highest art can only make us more deeply lament the inexorable decree, that not genius nor virtue nor public service can ward off death; that neither "storied urn nor animated bust can back to its mansion call the fleeting breath."

Distinguished as was his career; valuable, invaluable, as were the services of Justice Miller to the Nation at large, so as to rightfully entitle him to the appellation of "the John Marshall" of the most critical period in the history of the Republic, when only the highest statesmanship, united with the soundest judicial learning, might safely pilot the ship through the perils incident to the re-establishment of the Union, after four years of disunion and war, and appreciating

as we do these services, yet to-day, we, his friends, in placing his familiar face where coming generations of the bar of Iowa may look upon the features of her most illustrious jurist, are imbued with such personal feeling for the noble character of this great citizen, that in our hearts we adopt the language of Cicero, when the senate voted a public tablet to Sulpicius—"Not to Sulpicius the orator, but to Sulpicius the man, has Rome decreed this tablet."

It was the peculiarity of Justice Miller's character that those who were nearest to him felt as much the greatness of his soul as of his mind. There was a sturdy, invincible friendship in the man that nothing could shake, and though seemingly sometimes almost cruel in his imperious self-will and hasty expression, yet there was ever present a tenderness that made you love him. And how fine the moral fiber of that great character! How you could lean upon him without thought of treason! No man, high or low, rich or poor, ever had a truer friend.

I cannot close this brief tribute to the memory of our great friend, and you will pardon me I know, without one word of recognition of another in mind and character like him—his friend, and yours, and mine—in whose death the bar of the State has suffered a personal bereavement; whose long and distinguished career upon the Federal bench—nearly forty years—has made his honored name familiar to every citizen of Iowa; whose last message to me, written in pencil on his dying bed, I shall always cherish as a precious memento. His portrait, also, I had hoped to have here now, to be placed by the side of that of his illustrious associate. I have heard Justice Miller, in the confidence of the fireside, say that he never sat upon the bench with a greater Judge than James M. Love. I have heard Judge John F. Dillon indorse that estimate. That is enough to say. I now and here add only this, that of all the eminent Judges you and I have known, we have not known one who more completely united the admiration and the affection of the bar of a State than did Judge Love. So gentle and so great! And these men were friends—*par nobile fratrum!*

If, indeed, it be given to mortals in the dim hereafter to visit again the scenes of their labors and their triumphs here below, then are they with us here to-day, in this their most familiar place. Hail, ye noble shades! The semblance of the forms that once ye wore among us, our love would seek to preserve; but the record of your lives, preserved in the history of your country, shall be your imperishable monument to inspire us and the generation of lawyers who shall come after us with veneration for your character and just pride in your achievements.

[In receiving the portrait Mr. McFarland made a brief but very neat and appropriate speech, diverging a little from our report to narrate an anecdote of Justice Miller. His remarks as reported were as follows:]

*Mr. Chairman, and Ladies and Gentlemen:* Through the unfortunate circumstance of the sickness of our Governor, I have the distinguished honor in these ceremonies to represent the great Commonwealth of Iowa, of which we are all so justly proud. In receiving this generous donation for the State from the hands of friendship and patriotism, I feel very keenly my inability to fully express the feelings and emotions which I know must exist in the heart of every one, not only in this presence but in the State of Iowa, who is brought to contemplate this gift and the great character which it represents. It is said that the most precious and resplendent jewels of a commonwealth are those of its children who have either honored its origin, illuminated its history, or added lustre to its fame. In the broadest and best sense, the subject of this gift has done all of these.

Coming to Iowa almost contemporaneous with its Statehood, he was among those early pioneers who gave to the State its almost Puritanic character for integrity, devotion to liberty, and profound loyalty to the National Union. For nearly two decades after settling in the State, he adorned the private walks of citizenship, seeking neither official honors nor recognition.

He was always, however, found in the front ranks of Iowa's distinguished citizens, who in those early days so grandly promoted the prosperity of the State, shaped the character,

and laid the foundation of its magnificent educational system, all of which have made of it the particular bright star in the Union of States.

In the meantime in his chosen profession, the law, by the right use and cultivation of unusual natural endowments, by habits of industry, and by adherence to the strict rules of morality, he not only adorned his profession and helped to elevate it to the high plane which the profession has always occupied in the States, but he builded himself up into that strong, clean, rugged and fearless personality that so signally distinguished his later career as an almost peerless jurist.

But it is not my purpose to enter upon a panegyric of this great man. In life he honored his State, his country and his age. He has passed away. As a State we have his life, through eminent public service, preserved to us in enduring history, and his example will be a benediction and a bright inspiration to aspiring youth, while virtue and ability are honored among men.

We have presented to us to-day in this great work of art a representation of the physical identity of this distinguished fellow citizen. To those who knew him in life, this picture itself speaks in more eloquent tones than I can command of the value of this gift. To Hon. Henry Strong, the generous donor, the whole State is under lasting obligation; and I cannot accept this generosity to the State without first expressing that gratitude which I know is universal where the name and virtues of Justice Miller are known.

Nor can I refrain from speaking of the noble sentiments which will ever be associated with this gift. Friendship inspired the desire to preserve in material form the features and memory of a beloved neighbor and friend. Public-spirited generosity and patriotism were the mainsprings of the desire on the part of the donor to place in the possession of his native State the portrait of one of its most distinguished citizens.

The people of Iowa, I am sure, will accept this portrait with gratitude to the donor and love and veneration for the memory of Iowa's greatest jurist—aye, of the world's greatest jurist—of whom this is a memorial.

[In reponse to an invitation from the chair, Hon. Sam. M. Clark, of the Keokuk *Gate City*, paid a very eloquent tribute to the memory of his townsman, Justice Miller, as did also ex-Gov. Lucius Fairchild, of Wisconsin. Letters were received from the following distinguished gentlemen who were unable to be present: Hon. John A. Kasson, Hon. John W. Noble, Hon. Francis Springer, Hon. Frank W. Palmer, United States Senators Allison and Wilson, Hon. James Harlan, Hon. Theo. S. Parvin, ex-Gov. C. C. Carpenter, Hon. W. S. Dungan, Col. H. H. Trimble, Hon. T. S. Wilson, Hon. John Russell and others. We copy three of these letters, all of which we deem to possess historic value:]

FROM HON. JOHN A. KASSON.

WASHINGTON, Nov. 10, 1893.—*My Dear Mr. Aldrich:* It gave me great pleasure to receive your invitation of the 7th instant, and to know that the State gallery and museum were to be enriched by a portrait of that very eminent Justice of the National Supreme Court, Justice Miller. I wish to unite with you, the friends and promoters of the Historical Department, and with its other friends, in thanks to the generous donor.

Justice Miller was a man, a citizen, a lawyer, a judge of whom any State in the Union and any kingdom of the world might be justly proud. At the time of his much-lamented death he was by the bar of this country recognized as the greatest constitutional lawyer of that distinguished tribunal. The court itself so far acknowledged it that questions of constitutional interpretation were with few exceptions assigned to him for the draft of the opinion. The civil war and its results made these questions very numerous. The Justice himself told me that he had given, during his term on the bench, more opinions construing the Constitution than all which had previously been announced by the court during its entire existence. He had great breadth of view, combined with a natural power of clear and simple logical statement.

He was recommended for appointment by the bars of several States in the Northwestern circuit. No other candidate for the vacancy was so well recommended. At that time, however, he was little known outside the bar, and had little fame beyond the borders of his own State. When, at his request, I called upon President Lincoln to ascertain the cause of delay in his nomination, I found that his reputation as a lawyer had not then even extended so far as to Springfield, Illinois, for the President asked me if he was the same man who had some years before made a frontier race for Congress from the southern district of Iowa, and had trouble about the Mormon vote. Correcting Mr. Lincoln's misapprehension on this point, I proceeded to give the President a sketch of Mr. Miller's career and character; and now recall with pleasure my opinion then expressed, that impartiality and equanimity were essential qualities of his mind, and that nature herself had fitted him for the administration of justice. That judgment was verified by every year of his notable public service in the National court of last resort.

My great personal regard for Justice Miller has never wavered. He was not only attractive by his great intellectual ability, but also by his amiable and kindly manners. His mental superiority was never shown in arbitrary treatment of the bar. Few judges have had the good fortune to win such uniform respect and reverence from his fellows in front of the bench.

So much I take the liberty of saying, in response to your note—all that need be said may be summed up in the declaration that an Iowa historical gallery would be incomplete, indeed, if it did not show the broad head, the judicial brow and tranquil expression of Iowa's great representative in that exalted tribunal of justice, which is acknowledged by all nations to be in the very foremost rank of judicial authority. May this memorial of him in the State capitol inspire the young men of Iowa with ambition to

reproduce in the coming generation his high sense of justice, his intellectual culture and his patriotic devotion to our American Union.

I am very sincerely yours, JOHN A. KASSON.

FROM GEN. JOHN W. NOBLE.

ST. LOUIS, Mo., Nov. 14, 1893.—*Mr. Charles Aldrich, Curator, Des Moines, Iowa.* MY DEAR SIR: It is with great regret I find I cannot attend the presentation of the portrait of Justice Miller to the State of Iowa, on the 21st inst.

It was my good fortune to have known Judge Miller from 1855 to the close of his life; (indeed I think I was the last person to whom he spoke), and I but express the judgment of our countrymen in saying he was one of the most able lawyers and jurists we have ever had. His natural powers were of the highest order, and had been trained by great study and the severest discipline. He was growing stronger and broader intellectually at an age when even the greatest men are expected to abate their fires. He met some of the most trying crises of our political life with a courage and wisdom to which our Government to-day owes much of its safety and power. He moulded important departments of the National jurisprudence into their first definite and stable forms, and adorned the high place to which he was called, with a strength of reason and common sense united to a clearness of expression and warmed by a patriotism that have associated his name forever with Marshall and Lincoln, distinguished as they are above all for soundness of opinion, foresight and love of country.

But the people of Iowa will not remember Judge Miller any more for his greatness than for his goodness. His heart was big. He had the great bravery to stand by and up to his friends. I doubt if there ever was a man possessed of more unquestioning physical courage than he, and I believe he would have dared more for a friend than for anything else, save family and country. He seemed sometimes to forget even that other men might be made afraid. But wherever he was, he was attended by charity. His kindness of heart was as an ever-flowing spring—abundant, pure and constant. Green be the grass above him and his soul at peace with God!

But you will have his character displayed by others, and I might have kept silent. I could not, however, send you a cold regret on an occasion so important to the memory due our great and good friend. Iowa is all the dearer to me because Judge Miller was one of its citizens.

Sincerely, JOHN W. NOBLE.

FROM HON. FRANCIS SPRINGER.

COLUMBUS JUNCTION, Iowa, Nov. 18, 1893.—*Hon. Charles Aldrich, State Historical Department of Iowa.* MY DEAR SIR: I have to thank you for your favor inviting me to be present at the presentation of a portrait of the lamented Judge Miller, of the Supreme Court of the United States, to take place at the Capitol on Tuesday the 21st instant. I much regret that the infirmities of an octogenarian, in this November weather, would seem to deny me the gratification I would have in being present at a ceremony so interesting and appropriate. Iowa cannot too highly honor the memory of the great jurist, who, by the grandeur of his life and public service, has reflected so much honor upon her as well as upon the public at large. The portrait is a valuable thing in its way, so far as it goes, and reflects credit on its generous donor. But it is the opinion of many that the State of Iowa would more appropriately and justly honor herself and delight the great body of her intelligent and patriotic people by causing the erection near the Capitol, or in some public park in the city of Des Moines, of a monument or bronze statue, in memorial of her greatest and most distinguished son, the greatest jurist of his time in the world. Much of the expense would doubtless gladly be made up by individual contribution. It is to be hoped that the first step in this direction will be taken by the next General Assembly, and that public attention may be called to the subject by the press of the State.

There was a grandeur in the death of Judge Miller as in his life. He fell as he might be supposed to have preferred to fall, with shield and buckler on and lance at rest, in the full maturity of his great faculties and in the zenith of his fame.

And even in death, how majestic he appeared, as seen on the occasion of his funeral, while lying in state in the Federal court building in Keokuk. It was a theme of admiring remark among the crowds who had come to pay their last tribute of respect to their beloved fellow-citizen, as he appeared "like a warrior taking his rest," in a calm, natural sleep.

I esteem it my good fortune to have had the honor of Judge Miller's personal acquaintance and of his friendship for some thirty years prior to his decease. So loved and admired was he by myself and my sons that his death was felt by us as a personal bereavement.

For some years prior to his appointment to the Supreme bench he was a member of the bar of the court, (the District Court of the First Judicial District), where I presided as judge. That his rank was that of the highest in the courts of Iowa is well known—that the same relative rank was achieved by him in his career on the bench of the Supreme Court, the foremost and greatest among great Judges; is the voice of history.

How gratifying it is that the presentation of the portrait is to be accompanied by an address by the distinguished donor, on the life, character and public services of the great jurist; for it is safe to say that there is no gentleman in the country better equipped than he, by his long and intimate acquaintance with his thorough knowledge of, and his admiration for his great friend, for the preparation of an address of higher interest and completeness than that which he will probably give. I have the honor to be,

Truly yours,

FRANCIS SPRINGER.

[By request, and supplementary to his address given above, in presenting the portrait of Justice Miller to the State of Iowa, Mr. Strong has furnished for THE ANNALS the following biographical sketch of the great Judge, ending with his appointment to the Supreme Court bench of the United States in 1862, in the 46th year of his age:]

Of the ancestry and early life of Samuel F. Miller it is sufficient to say that his family was of German extraction, first resident in this country in Pennsylvania. In 1812 his father moved to central Kentucky, where Justice Miller was born April 5, 1816. After receiving a common school education, and a limited academic training, he entered upon the study of medicine and was graduated from the Transylvania University, in Kentucky, in 1838. He soon after removed to Barboursville, in the same State, and continued the practice of the profession for eight years. It did not require all this time, however, to convince the young M. D. that nature had intended him for a different vocation. Taking up the study of the law, as he did, it may well be surmised that for the last three years of his medical practice he took more interest in Coke and Blackstone than in Cullen and Watson.

He was admitted to the bar in 1847. At that time Iowa

had recently come into the Union, was the youngest of the States, abounded in wonderful resources, and opened the most promising field for an enterprising young man. Hundreds of young Kentuckians had already come here, some of whom had taken part in the organization of the State Government in 1846. John C. Breckinridge was settled at Burlington; Hendershott at Ottumwa; Chambers, afterward Governor, was also an emigrant from Kentucky. Miller was among the number, and took up his residence in Keokuk, in 1850.

Of the young and enterprising cities of Iowa, at that time, Keokuk was the most promising, situated at the foot of the first rapids of the Mississippi, and at the head of the deep-water navigation, it rivalled even Chicago as a point for the distribution of merchandise, as far west as Kansas and Nebraska. I feel justified in saying that in no State in the Union was there a greater proportion of young lawyers of high character and ability. Able and ambitious young men of the bar flocked here from every part of the country, many of whom have since filled the highest political and civil offices, both State and National. It was an embryo empire in itself, of untold possibilities. There I first met him six years later. I was impressed by his mental vigor and originality, and by his terseness of expression, whether in written pleadings or oral arguments. I had come from an Eastern law college where I had been taught to practice most strictly upon the *stare decisis* theory of the law, and to yield unquestionably to the weight of authority, which meant the doctrine of the majority as applied to court opinions, departing only far enough to admit that where the numbers were nearly equal, the judgments of Chief Justice Shaw, and such as he, were entitled to special consideration. Miller's method, however, was to cite few cases, but to impress the court with the reason of the law. As already stated, his terseness in pleading particularly impressed me. A page of legal cap written in an open hand would have been for him a long declaration or answer. One of his bills in Chancery was a marvel of condensed statement, and yet I do not recall a successful attack



upon his practice in this regard, by demurrer or by a motion for a more specific statement. He grasped at once the theory of the code of practice then and still in vogue here, and in this respect his court papers were an education to the younger bar. He was almost invincible in argument in the higher courts, so that we younger men were inclined to feel that he appeared before the Judges *auctoritate doctissimi*, who treated his utterances as *responsa prudentum*, and that our learning was not fully appreciated.

He never held a political office. Once, after twice declining, he was nominated, against his will, for the State Senate, but, though leading his ticket, he was unable to overcome the large Democratic majority in the county. His extensive and lucrative practice would not permit his accepting a position upon the State bench. The only office I ever knew him to hold was that of President of the State Bank at Keokuk, which indicated the estimation in which he was held by the business men of the community in which he resided.

The career of Justice Miller upon the bench of the Supreme Court has been no surprise to those who knew him best thirty years ago. Notwithstanding that he admittedly stood at the head of the Iowa bar, and had no superior among the lawyers of the Western States, while his fitness to be the associate of the ablest Judges on the Federal Bench was well known at home, yet the fact that he resided in the far West, in a new State, away from the centers of legal influence and opportunities for wide forensic display, made his appointment to the bench of the Supreme Court of the United States somewhat of a surprise to the country. There had been no Queen Caroline trial or Dean of St. Asaph's case, in connection with which the young lawyer could leap into National fame, as did Erskine or Denman, yet, while in stately, persuasive argument, there had been but one Erskine, no competent critic will claim that in original judicial reasoning, either Erskine or Denman was the superior of Miller or Matthews or other members of the Federal bench. The Western man's reputation had to grow by gradual accretion.

When the war of the Rebellion broke out, Miller took an active part in supporting the cause of the Union. Although brought up in a Southern State, the postulate of his political creed was the inviolability of the Union of the States. Abhorring any concession to the extension of slavery, yet recognizing the gravity of the situation, he was willing to accept the Crittenden resolutions as a compromise and escape. I well remember his reluctant but able argument in their support before a mass meeting of citizens called without distinction of party, to give expression to the public opinion. When, therefore, in the darkest period of the war, a vacancy occurred in the Federal Supreme Court, in 1862, which it was expected would be filled by the appointment of a Western lawyer, Miller was at once recognized as the most fitting person for the place. He was not only unanimously recommended by the bar of his own State, but his appointment was urged by most of the leading attorneys in the adjacent States, and by 126 out of 140 members of the House, and 28 out of 34 Senators in Congress. President Lincoln said that he had not known such an unanimous recommendation of any man for any office, and felt that he could not err in making the appointment of a Federal Judge so generally approved by an intelligent bar, and, not less important in such a crisis, by a patriotic people.

His subsequent career is a part of our national history.

Judge Miller was in every way an ideal citizen; a friendly neighbor, a genial host, an affectionate husband, a devoted father. By nature skeptical, yet reverential, almost devout, he realized the value of purely religious institutions, and gave to them his most cordial support. In theology he was a Unitarian, which church he attended both in Iowa and Washington. His benevolence, his natural kindness of heart, his charity that covered all errors and frequent sins, his big-souledness (if I may coin a word) controlled his judgment and conduct all through life. The nearer you approached, the more you were drawn to the great sweet soul that always responded to the cry for help.

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