

A

L. G. S. Boyd.

H I S T O R Y
OF
THE LAW, THE COURTS,
AND
THE LAWYERS

Of Maine,

FROM ITS FIRST COLONIZATION TO THE EARLY PART OF THE
PRESENT CENTURY.

By WILLIAM WILLIS.

PORTLAND:

CHAPTER XIX.

SIMON GREENLEAF — CALVIN SELDEN — SAMUEL FESSENDEN —
WILLIAM ALLEN HAYES — EDMUND FLAGG — AL-
BION KEITH PARRIS — HIRAM BELCHER.

SIMON GREENLEAF. 1806—1834.

Among the distinguished lawyers and advocates who have adorned the Cumberland Bar during its century of existence, from the organization of the county in 1760, we may rank Professor Greenleaf, who for twenty-seven years was one of its able champions. He descended from Edmund Greenleaf, who was born in the parish of Brixham, Devonshire, England, about the year 1600, and came to Newbury, Massachusetts, in 1635, with his family. One of his descendants, the Rev. Jonathan Greenleaf of Brooklyn, New York, in his well prepared genealogical account of the family, to which I am largely indebted for many facts, remarks: "It is believed that the ancestors of the Greenleaf family were Huguenots, who left France on account of their religious principles, sometime in the course of the sixteenth century, and settled in England. The name was probably translated from the French name 'Fevillevert,' which means



Simon Greenleaf

in English a green leaf." His wife was Sarah Dole. The table of descent in a direct line to Simon is as follows :

1. Edmund, died in Boston, 1671.
2. Stephen, born in England, 1630, drowned 1690.
3. John, " June 21, 1682, died June 24, 1734.
4. Daniel, " Dec. 24, 1690, drown'd Jan., 1729.
5. Jonathan, " July, 1723, died May, 1807.
6. Moses, " May 19, 1755, " Dec. 18, 1812.
7. Simon, " Dec. 5, 1783, " Oct. 6, 1853.

The grandfather of Simon, the Hon. Jonathan Greenleaf, was the sixth child and second son of Daniel, who was drowned when his son Jonathan was a little over five years of age, leaving his family quite destitute. At the age of seven, Jonathan was apprenticed to a ship carpenter, which was the principal occupation of his life, and by which he accumulated a large estate. And as he was a very upright, honest man, it is very probable that the high character of the ships built at Newburyport, and on the Merrimac River, may be owing to the integrity of the men who were engaged in this employment. Jonathan Greenleaf rose into political life and influence: he was a member of the Provincial Congress, and after that, of the House of Representatives, the Senate, and Council of Massachusetts. He was of dignified manners and popular address, and from the gentle, silvery tones of his voice, he was distinguished from others of the name by the title "silver-tongued Greenleaf." His second son, Moses, father of Simon, was also bred a ship-carpenter, but on the breaking out of the Revolution, he entered the army as a lieutenant: the next year he was promoted to a captaincy, and served nearly through the war. In 1781, he formed a connection in ship-building with his father; and from that time to 1790, the firm built twenty-

two ships and brigs. In the latter year, he moved on to a farm in New Gloucester, where he died December 18, 1812. He was a well-proportioned man, with a military air, walking erect with a firm step. His wife, whom he married in 1776, was Lydia, a daughter of the Rev. Jonathan Parsons of Newburyport, a woman of remarkably benevolent and self-denying spirit. They had five children, viz., Moses; Clarina, married to Eleazar A. Jenks, a printer in Portland; Ebenezer; Simon; and Jonathan, who was born in 1785, and is the only survivor. He studied divinity with the Rev. Francis Brown of North Yarmouth, and was ordained at Wells, Maine, in 1815; and in 1843 was installed pastor of the Wallabout Presbyterian Church in Brooklyn, New York. While residing in Wells, he published in 1821, "Sketches of the Ecclesiastical History of Maine from the Earliest Settlement to the Present Time," a work admirably executed and of standard authority. Their eldest brother, Moses, was also gifted with high intellectual qualities: in 1816, he published "A Statistical View of Maine." This, in 1829, he enlarged into an octavo volume of four hundred and sixty-eight pages, entitled, "A Survey of the State of Maine, in reference to its Geographical Features, Statistics, and Political Economy: Illustrated by Maps." Accompanying this was a large map of the State, and an atlas exhibiting various features of the State, titles to land, &c. These works were of high authority and very valuable.

Simon Greenleaf, the subject of our notice, was born in Newburyport, December 5, 1783. He did not accompany his father's family to New Gloucester in 1790, but was retained by his grandfather for the advantage of the better schools in his native town. He was educated at the "Latin School" in Newburyport, then under charge of Michael Walsh, who was well known in his day, and for many years in the early part of the present century, as the author of

the "Mercantile Arithmetic," which was not only a popular text book, but a counting-house companion. Mr. Greenleaf rapidly improved his advantages, acquired a very thorough knowledge of the Latin and English languages, and great facility in the use of them. On leaving the academy, he went to New Gloucester, and entered the office of Ezekiel Whitman as a student, and boarded in his family. I am happy to be able to give the testimony of so discriminating an observer as Judge Whitman to the early character of Mr. Greenleaf: he said, "When he came to me in New Gloucester, he was an excellent English and Latin scholar, and became a very faithful and devoted student." He added, "When business called me from home, I intrusted my office business to him, placing entire confidence in him, and was never disappointed or deceived." In his family he was kind, patient, and considerate, and won the affection of all the members of it. He was admitted to the bar of Cumberland in 1806, and commenced practice in Standish, but the next year he moved to Gray. Being the first and the only lawyer in the place, he soon acquired a very considerable practice, which he retained and enlarged by his fidelity and skill. As his family increased, he desired to extend the range of his business and increase its emoluments, and in 1818 he removed to Portland. At that time, the two leading members of the bar had been drawn aside from their profession into public life: Judge Mellen was in the United States Senate, and Judge Whitman in the House of Representatives; and Mr. Orr, who had a large practice in Cumberland, was also in Congress. This encouraged the accession of other prominent men to Portland: of these were Mr. Greenleaf and the late Judge Preble, who came the same year. Mr. Greenleaf was not disappointed: his business and his fame increased, and the larger and more cultivated society, and its superior advantages in other

two ships and brigs. In the latter year, he moved on to a farm in New Gloucester, where he died December 18, 1812. He was a well-proportioned man, with a military air, walking erect with a firm step. His wife, whom he married in 1776, was Lydia, a daughter of the Rev. Jonathan Parsons of Newburyport, a woman of remarkably benevolent and self-denying spirit. They had five children, viz., Moses; Clarina, married to Eleazar A. Jenks, a printer in Portland; Ebenezer; Simon; and Jonathan, who was born in 1785, and is the only survivor. He studied divinity with the Rev. Francis Brown of North Yarmouth, and was ordained at Wells, Maine, in 1815; and in 1843 was installed pastor of the Wallabout Presbyterian Church in Brooklyn, New York. While residing in Wells, he published in 1821, "Sketches of the Ecclesiastical History of Maine from the Earliest Settlement to the Present Time," a work admirably executed and of standard authority. Their eldest brother, Moses, was also gifted with high intellectual qualities: in 1816, he published "A Statistical View of Maine." This, in 1829, he enlarged into an octavo volume of four hundred and sixty-eight pages, entitled, "A Survey of the State of Maine, in reference to its Geographical Features, Statistics, and Political Economy: Illustrated by Maps." Accompanying this was a large map of the State, and an atlas exhibiting various features of the State, titles to land, &c. These works were of high authority and very valuable.

Simon Greenleaf, the subject of our notice, was born in Newburyport, December 5, 1783. He did not accompany his father's family to New Gloucester in 1790, but was retained by his grandfather for the advantage of the better schools in his native town. He was educated at the "Latin School" in Newburyport, then under charge of Michael Walsh, who was well known in his day, and for many years in the early part of the present century, as the author of

the "Mercantile Arithmetic," which was not only a popular text book, but a counting-house companion. Mr. Greenleaf rapidly improved his advantages, acquired a very thorough knowledge of the Latin and English languages, and great facility in the use of them. On leaving the academy, he went to New Gloucester, and entered the office of Ezekiel Whitman as a student, and boarded in his family. I am happy to be able to give the testimony of so discriminating an observer as Judge Whitman to the early character of Mr. Greenleaf: he said, "When he came to me in New Gloucester, he was an excellent English and Latin scholar, and became a very faithful and devoted student." He added, "When business called me from home, I intrusted my office business to him, placing entire confidence in him, and was never disappointed or deceived." In his family he was kind, patient, and considerate, and won the affection of all the members of it. He was admitted to the bar of Cumberland in 1806, and commenced practice in Standish, but the next year he moved to Gray. Being the first and the only lawyer in the place, he soon acquired a very considerable practice, which he retained and enlarged by his fidelity and skill. As his family increased, he desired to extend the range of his business and increase its emoluments, and in 1818 he removed to Portland. At that time, the two leading members of the bar had been drawn aside from their profession into public life: Judge Mellen was in the United States Senate, and Judge Whitman in the House of Representatives; and Mr. Orr, who had a large practice in Cumberland, was also in Congress. This encouraged the accession of other prominent men to Portland: of these were Mr. Greenleaf and the late Judge Preble, who came the same year. Mr. Greenleaf was not disappointed: his business and his fame increased, and the larger and more cultivated society, and its superior advantages in other

respects, stimulated his susceptible powers to higher efforts. He now took rank among the foremost men at the bar, and by his winning manners, and his persuasive style of speaking and address, accompanied by the skill and ingenuity of his arguments, established his reputation and his practice on a firm basis.

In the act of the new State, establishing the Supreme Judicial Court, passed June 24, 1820, the governor and council were required "to appoint some suitable person learned in the law, to be a reporter of the decisions of the Supreme Judicial Court," whose duty it was made to obtain true and authentic reports of cases decided by the court, and publish them, whenever they would compose a suitable volume. His compensation was fixed at six hundred dollars a year salary, and the profits arising from the publication. Mr. Greenleaf was immediately appointed reporter under this act, and entered on his duties at York, August term, 1820. He continued faithfully, promptly, and very ably to discharge the duties of this arduous and responsible office for twelve years, closing with the July term at Waldo in 1832. The cases determined during this period are contained in nine volumes, the last embracing a table of cases, and a digest of the whole. The judges were,—Mellen, chief justice, and Weston, judge, through the whole period; Judge Preble to 1828; and Judge Parris the remainder of the time. The reports are distinguished for the clear and concise manner in which the points of law are stated, and the arguments of counsel given: they took high rank in this class of legal productions, and were received as standards of authority throughout the Union. They were deservedly considered among the most valuable of American reports, and so highly were they esteemed that a new edition was demanded by the profession,—a very rare thing in this class of works,—which was published with annotations

by Mr. Abbot of Cambridge, a short time previous to Mr. Greenleaf's death.

In 1821, while engaged in his office of reporter and his extended practice, increased by his attending the circuits through the several counties, he employed himself in the preparation and publication of "A Collection of Cases, Overruled, Doubted, or Limited in their application, Taken from American and English Reports." Professor Parsons of the Cambridge Law School, in a notice of Professor Greenleaf's death, gives the following interesting account of the origin of this useful little work. He says, "His first law book sprang, as we have his own authority for saying, from this circumstance. Very early in his professional career, he had given an opinion, and argued a case which grew out of his opinion, upon the authority of an English decision, which seemed to be applicable and decisive. But the court informed him that this case had been overruled, and had no authority whatever. He determined at once to ascertain, as far as he could, which of the apparently authoritative cases in the reports had lost their force, and to give the information to the profession. The idea was original, the execution good, and the book very useful." But Prof. Parsons observes, if he could have had access to a more complete library of Reports, he might have made it more full and useful.

By his unceasing application, his genius, and his increasing experience, Mr. Greenleaf advanced himself into the foremost rank of the profession: the eminent lawyers who had been moving onward with him, were gradually withdrawing from the bar,—Judges Mellen, Whitman, and Preble to the bench, Mr. Longfellow by ill health, and Mr. Orr in 1828 by death; thus making a larger opening for the learning and talents of the younger members who were pressing forward for distinction: among these were Mr.

respects, stimulated his susceptible powers to higher efforts. He now took rank among the foremost men at the bar, and by his winning manners, and his persuasive style of speaking and address, accompanied by the skill and ingenuity of his arguments, established his reputation and his practice on a firm basis.

In the act of the new State, establishing the Supreme Judicial Court, passed June 24, 1820, the governor and council were required "to appoint some suitable person learned in the law, to be a reporter of the decisions of the Supreme Judicial Court," whose duty it was made to obtain true and authentic reports of cases decided by the court, and publish them, whenever they would compose a suitable volume. His compensation was fixed at six hundred dollars a year salary, and the profits arising from the publication. Mr. Greenleaf was immediately appointed reporter under this act, and entered on his duties at York, August term, 1820. He continued faithfully, promptly, and very ably to discharge the duties of this arduous and responsible office for twelve years, closing with the July term at Waldo in 1832. The cases determined during this period are contained in nine volumes, the last embracing a table of cases, and a digest of the whole. The judges were,—Mellen, chief justice, and Weston, judge, through the whole period; Judge Preble to 1828; and Judge Parris the remainder of the time. The reports are distinguished for the clear and concise manner in which the points of law are stated, and the arguments of counsel given: they took high rank in this class of legal productions, and were received as standards of authority throughout the Union. They were deservedly considered among the most valuable of American reports, and so highly were they esteemed that a new edition was demanded by the profession,—a very rare thing in this class of works,—which was published with annotations

by Mr. Abbot of Cambridge, a short time previous to Mr. Greenleaf's death.

In 1821, while engaged in his office of reporter and his extended practice, increased by his attending the circuits through the several counties, he employed himself in the preparation and publication of "A Collection of Cases, Overruled, Doubted, or Limited in their application, Taken from American and English Reports." Professor Parsons of the Cambridge Law School, in a notice of Professor Greenleaf's death, gives the following interesting account of the origin of this useful little work. He says, "His first law book sprang, as we have his own authority for saying, from this circumstance. Very early in his professional career, he had given an opinion, and argued a case which grew out of his opinion, upon the authority of an English decision, which seemed to be applicable and decisive. But the court informed him that this case had been overruled, and had no authority whatever. He determined at once to ascertain, as far as he could, which of the apparently authoritative cases in the reports had lost their force, and to give the information to the profession. The idea was original, the execution good, and the book very useful." But Prof. Parsons observes, if he could have had access to a more complete library of Reports, he might have made it more full and useful.

By his unceasing application, his genius, and his increasing experience, Mr. Greenleaf advanced himself into the foremost rank of the profession: the eminent lawyers who had been moving onward with him, were gradually withdrawing from the bar,—Judges Mellen, Whitman, and Preble to the bench, Mr. Longfellow by ill health, and Mr. Orr in 1828 by death; thus making a larger opening for the learning and talents of the younger members who were pressing forward for distinction: among these were Mr.

Greenleaf, Gen. Fessenden, Mr. Davies, and others still younger. So conspicuous had Mr. Greenleaf become about the time that he closed his duties as reporter, that the attention of Judge Story, then at the head of the law school at Cambridge, was turned to him, as the most suitable person to supply the vacancy in that department of the university, rendered vacant by the death of the lamented Prof. Ashmun. We are indebted to Prof. Parsons's address before quoted, to a little private history on this subject, which it may not be uninteresting to our readers to review. Mr. Parsons says, "He succeeded Prof. Ashmun in 1833, as Royall Professor. It was, as I have always understood, at Judge Story's suggestion that Mr. Greenleaf was solicited to leave Portland, and take upon himself these new duties. I have been told, but not by Mr. Greenleaf, that Judge Story, holding his court in Portland, had there an interesting case in admiralty. At that time, this branch of the law was known only in our largest commercial cities, and not to many of the profession there. And Judge Story was surprised when he found that Mr. Greenleaf brought to this case, a thorough acquaintance with this very peculiar system of law, which he himself deemed of great importance, and which, foreseeing its constantly increasing value, he wished to make prominent in the instruction of the school. And he immediately determined to bring Mr. Greenleaf to Cambridge, if he could."

The case above referred to as attracting the notice of Judge Story, was similar, perhaps, to one of which the following anecdote is related. Mr. Greenleaf's father was not only a ship-carpenter, but an accurate draughtsman, and he took much pains in teaching his boys the art of constructing a vessel. Simon, in this, was his most apt scholar: the benefit of which was shown in his legal practice. On one occasion, he was engaged in an insurance cause: the

vessel insured had been injured by pounding upon the bottom or side while lying at a wharf. The defense was, that the injury was occasioned by carelessness in the insured in not securing her to the wharf, alleging the damage to have been in her side and not her bottom. One of the witnesses for the plaintiff was a master-builder, who had repaired the ship, and who, having testified that the injury was on the bottom, was thus cross-examined by Mr. Greenleaf. "You are a ship-carpenter, and master of your trade?" "Yes." "In building a vessel, after laying your keel, you place a row of crooked timbers cross-wise, securing them to the keel with iron bolts?" "Yes." "These you call *floor timbers*?" "Yes." "Between these floor timbers the end of another crooked timber is inserted, as you would insert the fingers of one hand between those of another, and these you call *foot hook* (futtuck) timber?" "Yes." "And so you proceed, filling in rows of crooked timbers, until you reach the top, calling the third the *rising timber*, then the *naval timber*, and then the *top timber*?" "Yes." "Now," said Mr. Greenleaf, "state to the jury, on your oath, what kind of a timber you furnished for the repairing of that vessel. Was it a floor timber, a foot hook, a rising or a naval timber?" "It was a naval timber," said the witness. The case was clear, the jury saw it at a glance. The injury was on the *side* of the vessel, and not on the *bottom*: it was from carelessness and not accident, and the defense was sustained. For this anecdote I am indebted to his brother Jonathan, and it well illustrates his ingenuity and the advantage of his early attention to the details of the mechanic arts, in which he was quite proficient.

He entered upon the important duties of his professorship, a new and untried course of life, in 1833, when there were but about fifty students in the school, and closed his labors in it by resignation in 1848, when the number was

Greenleaf, Gen. Fessenden, Mr. Davies, and others still younger. So conspicuous had Mr. Greenleaf become about the time that he closed his duties as reporter, that the attention of Judge Story, then at the head of the law school at Cambridge, was turned to him, as the most suitable person to supply the vacancy in that department of the university, rendered vacant by the death of the lamented Prof. Ashmun. We are indebted to Prof. Parsons's address before quoted, to a little private history on this subject, which it may not be uninteresting to our readers to review. Mr. Parsons says, "He succeeded Prof. Ashmun in 1833, as Royall Professor. It was, as I have always understood, at Judge Story's suggestion that Mr. Greenleaf was solicited to leave Portland, and take upon himself these new duties. I have been told, but not by Mr. Greenleaf, that Judge Story, holding his court in Portland, had there an interesting case in admiralty. At that time, this branch of the law was known only in our largest commercial cities, and not to many of the profession there. And Judge Story was surprised when he found that Mr. Greenleaf brought to this case, a thorough acquaintance with this very peculiar system of law, which he himself deemed of great importance, and which, foreseeing its constantly increasing value, he wished to make prominent in the instruction of the school. And he immediately determined to bring Mr. Greenleaf to Cambridge, if he could."

The case above referred to as attracting the notice of Judge Story, was similar, perhaps, to one of which the following anecdote is related. Mr. Greenleaf's father was not only a ship-carpenter, but an accurate draughtsman, and he took much pains in teaching his boys the art of constructing a vessel. Simon, in this, was his most apt scholar: the benefit of which was shown in his legal practice. On one occasion, he was engaged in an insurance cause: the

vessel insured had been injured by pounding upon the bottom or side while lying at a wharf. The defense was, that the injury was occasioned by carelessness in the insured in not securing her to the wharf, alleging the damage to have been in her side and not her bottom. One of the witnesses for the plaintiff was a master-builder, who had repaired the ship, and who, having testified that the injury was on the bottom, was thus cross-examined by Mr. Greenleaf. "You are a ship-carpenter, and master of your trade?" "Yes." "In building a vessel, after laying your keel, you place a row of crooked timbers cross-wise, securing them to the keel with iron bolts?" "Yes." "These you call *floor timbers*?" "Yes." "Between these floor timbers the end of another crooked timber is inserted, as you would insert the fingers of one hand between those of another, and these you call *foot hook* (futtuck) timber?" "Yes." "And so you proceed, filling in rows of crooked timbers, until you reach the top, calling the third the *rising timber*, then the *naval timber*, and then the *top timber*?" "Yes." "Now," said Mr. Greenleaf, "state to the jury, on your oath, what kind of a timber you furnished for the repairing of that vessel. Was it a floor timber, a foot hook, a rising or a naval timber?" "It was a naval timber," said the witness. The case was clear, the jury saw it at a glance. The injury was on the *side* of the vessel, and not on the *bottom*: it was from carelessness and not accident, and the defense was sustained. For this anecdote I am indebted to his brother Jonathan, and it well illustrates his ingenuity and the advantage of his early attention to the details of the mechanic arts, in which he was quite proficient.

He entered upon the important duties of his professorship, a new and untried course of life, in 1833, when there were but about fifty students in the school, and closed his labors in it by resignation in 1848, when the number was

about one hundred and fifty.¹ The duties of his professorship, and those which he voluntarily assumed and performed, were too much for his health, and he retired from his office with a shattered constitution. For thirteen years, from 1833 to 1846, he and Judge Story labored together to build up this valuable school. To use the language of Prof. Parsons, "They worked harmoniously and successfully, and perhaps the more harmoniously, because they were so entirely different. With much in common, for both were able, learned, and of the most devoted industry, there were other traits that belonged to one or the other of them exclusively. Greenleaf was singularly calm, finding strength in his very stillness, always cautious, and therefore always exact; Story was as vivid and impulsive as man could be. His words flowed like a flood; but it was because his emotions and his thoughts demanded a flood as their exponent, and Story's manner was most peculiar: everybody listened when he spoke, for he carried one away with the irresistible attraction of his own swift motion. And Greenleaf,—somewhat slow and measured in his enunciation,—by the charm of his silver voice, the singular felicity of his expressions, and the smooth flow of his untroubled stream of thought, caught and held the attention of every listener as few men can." In connection with this office, Mr. Parsons again says, "If Mr. Greenleaf could himself have directed the course of one who was to construct a memorial of him, assuredly he would have given special prominence to that which was not only the scene of his long-continued usefulness, but the object with which he

¹ "The exact number of students who have been in the Law School during Mr. Greenleaf's connection with it is one thousand three hundred and five. During the same period, upwards of ten thousand volumes have been added to the library, at the cost of over twenty-six thousand dollars."—Law Rep. 11,190.

was most earnestly, most devoutly, and most successfully identified." In 1846, after the death of Judge Story, he was appointed as his successor in the Dane Professorship, in which he continued until his resignation in 1848.

The current of testimony was strong and uniform to the very able and satisfactory manner in which he discharged the duties of his professorship. The numerous pupils, who, during his labors, partook of the benefit of his instruction and his counsel, scattered all over our country, cherish a sweet recollection of the eloquent and persuasive lessons which it was their privilege to receive from him. The Faculty of the college were most unwilling to lose his services, but yielded to a paramount necessity. And they bestowed upon him the honorary title of *Emeritus* Professor, which he bore as long as he lived. They also bestowed upon him the degree of LL. D. in 1834, in which they were followed by Amherst in 1845, and Alabama in 1852.

The whole life of Prof. Greenleaf was filled with useful and honorable labor,—"*Actis ævum implet, non segnibus annis.*"—But the fifteen, nay, the twenty years in which he resided in Cambridge were the most busy portion of his life. In addition to his lectures and the duties incident to his professorship, he was incessantly at work upon his books. During this period, he published a second edition of his Reports with notes; in 1842, his first volume "On the Law of Evidence;" in 1846, the second volume; and in 1853, the third volume. In 1849, appeared the first volume of his edition of "Cruise's Digest of the Law of Real Property;" and in 1850, the second and third volumes—all these volumes were in royal octavo. In 1841, he prepared, at the request of the Cumberland Bar, a memoir of Chief Justice Mellen, which was published as an Appendix to the seventeenth volume of the Maine Reports. In 1845, he delivered a eulogy on Judge Story, which was published. This was

about one hundred and fifty.¹ The duties of his professorship, and those which he voluntarily assumed and performed, were too much for his health, and he retired from his office with a shattered constitution. For thirteen years, from 1833 to 1846, he and Judge Story labored together to build up this valuable school. To use the language of Prof. Parsons, "They worked harmoniously and successfully, and perhaps the more harmoniously, because they were so entirely different. With much in common, for both were able, learned, and of the most devoted industry, there were other traits that belonged to one or the other of them exclusively. Greenleaf was singularly calm, finding strength in his very stillness, always cautious, and therefore always exact; Story was as vivid and impulsive as man could be. His words flowed like a flood; but it was because his emotions and his thoughts demanded a flood as their exponent, and Story's manner was most peculiar: everybody listened when he spoke, for he carried one away with the irresistible attraction of his own swift motion. And Greenleaf,—somewhat slow and measured in his enunciation,—by the charm of his silver voice, the singular felicity of his expressions, and the smooth flow of his untroubled stream of thought, caught and held the attention of every listener as few men can." In connection with this office, Mr. Parsons again says, "If Mr. Greenleaf could himself have directed the course of one who was to construct a memorial of him, assuredly he would have given special prominence to that which was not only the scene of his long-continued usefulness, but the object with which he

¹ "The exact number of students who have been in the Law School during Mr. Greenleaf's connection with it is one thousand three hundred and five. During the same period, upwards of ten thousand volumes have been added to the library, at the cost of over twenty-six thousand dollars."—Law Rep. 11,190.

was most earnestly, most devoutly, and most successfully identified." In 1846, after the death of Judge Story, he was appointed as his successor in the Dane Professorship, in which he continued until his resignation in 1848.

The current of testimony was strong and uniform to the very able and satisfactory manner in which he discharged the duties of his professorship. The numerous pupils, who, during his labors, partook of the benefit of his instruction and his counsel, scattered all over our country, cherish a sweet recollection of the eloquent and persuasive lessons which it was their privilege to receive from him. The Faculty of the college were most unwilling to lose his services, but yielded to a paramount necessity. And they bestowed upon him the honorary title of *Emeritus* Professor, which he bore as long as he lived. They also bestowed upon him the degree of LL. D. in 1834, in which they were followed by Amherst in 1845, and Alabama in 1852.

The whole life of Prof. Greenleaf was filled with useful and honorable labor,—"*Actis ævum implet, non segnibus annis.*"—But the fifteen, nay, the twenty years in which he resided in Cambridge were the most busy portion of his life. In addition to his lectures and the duties incident to his professorship, he was incessantly at work upon his books. During this period, he published a second edition of his Reports with notes; in 1842, his first volume "On the Law of Evidence;" in 1846, the second volume; and in 1853, the third volume. In 1849, appeared the first volume of his edition of "Cruise's Digest of the Law of Real Property;" and in 1850, the second and third volumes—all these volumes were in royal octavo. In 1841, he prepared, at the request of the Cumberland Bar, a memoir of Chief Justice Mellen, which was published as an Appendix to the seventeenth volume of the Maine Reports. In 1845, he delivered a eulogy on Judge Story, which was published. This was

a beautiful tribute to the memory of a great man, an honorable literary effort. In a notice of it in the *Law Reporter* for December, 1845, is this remark: "It is entirely free from the defects of extravagant and indiscriminate praise, to which eulogies are peculiarly exposed. It is calm and conscientious. It is also a production of much literary merit. It has that simplicity and transparency of style which we always notice in Prof. Greenleaf's publications." His discourse on his inauguration in 1833, was published in that year. Several communications from him appeared in the *Law Reporter*, viz., in 1839, I., 345, "Remarks on the Exclusion of Atheists as Witnesses;" in the April number, 1847, "The Rule of Damages in Actions ex Delicto." In 1845, he published "Testamentary Counsels and Hints to Christians on the Right Distribution of their Property by Will: By a Retired Solicitor." In 1846, he published "An Examination of the Testimony of the Four Evangelists by the Rules of Evidence administered in Courts of Justice; with an account of the Trial of Jesus." This was republished in London in 1846. Besides these, he printed "A Catalogue of a Select Law Library;" "A Course of Legal Studies;" "A Letter to a Lawyer: By a member of the Profession," which was published as a tract by the American Tract Society.

The continued pressure upon mind and body in the preparation and publication of these valuable works could not but make serious inroads upon a system of the strongest model, much more upon one not gifted with the highest physical properties. No wonder that the silver cord was loosened by the great tension upon it, or that the golden bowl which fed the lamp of life was broken. He gave no margin of his life to recreation, except from one field of mental activity to another: the consequence was that he fell exhausted by life's toil: he was cut down suddenly, with

his harness all on, in the midst of his labors. He died on the 6th of October, 1853, at the age of seventy, "in the full maturity of his powers, and the meridian of his fame."

Mr. Greenleaf had neither leisure nor taste to engage in politics. His political opinions were always firm and decided as a federalist of the old school, and he never hesitated to express them. But he was no partisan, and the farthest remove from a demagogue. In 1816, he was proposed as a candidate for the Senate of Massachusetts from Cumberland County, with Lathrop Lewis, but the opposition candidates were elected by a small majority. In 1820 and 1821, he, with Asa Clapp and Nicholas Emery, represented Portland in the Legislature of Maine. As these were sessions when the new government was put in operation, the duty was responsible, and to a lawyer who was expected to pass upon the code of laws to be adopted on careful revision, arduous. Mr. Greenleaf was faithful to his trust, and beneficial to the country. With this experience, he retired at once and forever from political office.

Mr. Greenleaf, in August, 1806, married Hannah Kingman, a daughter of Capt. Ezra Kingman of East Bridgewater, Massachusetts, by whom he had fifteen children,—eleven of whom died in infancy. The survivors are two sons and two daughters: the daughters married Episcopal clergymen,—Charlotte Kingman, the Rev. Samuel Fuller; and Caroline Augusta, the Rev. Andrew Crosswell: of the sons, Patrick Henry graduated at Bowdoin College in 1825, was educated for the bar, and practiced sometime in Portland,—he afterwards became, and is now, an Episcopal minister: James graduated at Dartmouth College in 1834, was a merchant in New Orleans at the breaking out of the great Rebellion, and now resides in Cambridge, Massachusetts: he married a daughter of his father's cherished friend, Stephen Longfellow.

a beautiful tribute to the memory of a great man, an honorable literary effort. In a notice of it in the *Law Reporter* for December, 1845, is this remark: "It is entirely free from the defects of extravagant and indiscriminate praise, to which eulogies are peculiarly exposed. It is calm and conscientious. It is also a production of much literary merit. It has that simplicity and transparency of style which we always notice in Prof. Greenleaf's publications." His discourse on his inauguration in 1833, was published in that year. Several communications from him appeared in the *Law Reporter*, viz., in 1839, I., 345, "Remarks on the Exclusion of Atheists as Witnesses;" in the April number, 1847, "The Rule of Damages in Actions ex Delicto." In 1845, he published "Testamentary Counsels and Hints to Christians on the Right Distribution of their Property by Will: By a Retired Solicitor." In 1846, he published "An Examination of the Testimony of the Four Evangelists by the Rules of Evidence administered in Courts of Justice; with an account of the Trial of Jesus." This was republished in London in 1846. Besides these, he printed "A Catalogue of a Select Law Library;" "A Course of Legal Studies;" "A Letter to a Lawyer: By a member of the Profession," which was published as a tract by the American Tract Society.

The continued pressure upon mind and body in the preparation and publication of these valuable works could not but make serious inroads upon a system of the strongest model, much more upon one not gifted with the highest physical properties. No wonder that the silver cord was loosened by the great tension upon it, or that the golden bowl which fed the lamp of life was broken. He gave no margin of his life to recreation, except from one field of mental activity to another: the consequence was that he fell exhausted by life's toil: he was cut down suddenly, with

his harness all on, in the midst of his labors. He died on the 6th of October, 1853, at the age of seventy, "in the full maturity of his powers, and the meridian of his fame."

Mr. Greenleaf had neither leisure nor taste to engage in politics. His political opinions were always firm and decided as a federalist of the old school, and he never hesitated to express them. But he was no partisan, and the farthest remove from a demagogue. In 1816, he was proposed as a candidate for the Senate of Massachusetts from Cumberland County, with Lathrop Lewis, but the opposition candidates were elected by a small majority. In 1820 and 1821, he, with Asa Clapp and Nicholas Emery, represented Portland in the Legislature of Maine. As these were sessions when the new government was put in operation, the duty was responsible, and to a lawyer who was expected to pass upon the code of laws to be adopted on careful revision, arduous. Mr. Greenleaf was faithful to his trust, and beneficial to the country. With this experience, he retired at once and forever from political office.

Mr. Greenleaf, in August, 1806, married Hannah Kingman, a daughter of Capt. Ezra Kingman of East Bridgewater, Massachusetts, by whom he had fifteen children, — eleven of whom died in infancy. The survivors are two sons and two daughters: the daughters married Episcopal clergymen, — Charlotte Kingman, the Rev. Samuel Fuller; and Caroline Augusta, the Rev. Andrew Crosswell: of the sons, Patrick Henry graduated at Bowdoin College in 1825, was educated for the bar, and practiced sometime in Portland, — he afterwards became, and is now, an Episcopal minister: James graduated at Dartmouth College in 1834, was a merchant in New Orleans at the breaking out of the great Rebellion, and now resides in Cambridge, Massachusetts: he married a daughter of his father's cherished friend, Stephen Longfellow.

As a writer and author, Professor Greenleaf stands deservedly high, and may be ranked, among American authors, in the class with the learned jurists, Kent and Story. The estimation in which his works are held, and their merits, may be inferred from the following remarks of Professor Parsons: "His reports are among the most valuable of American Reports: his edition of Cruise has entirely superseded, for American use, the English edition. It is, however, in his work on the Law of Evidence, that we find the best proof of his industry, his learning, and his sagacity. He certainly intended it, at first, mainly as a manual for students. But the profession took it up; and, as repeated editions were demanded, it grew upon his hands; and has grown equally in public favor, until it has overcome all competition, and become *the* book which every student and every practicing lawyer must have. How completely it has monopolized the public favor, may be inferred from the fact, that of the several volumes, there have been printed in this country,—if we include the second edition of the third volume now going through the press,—but very little less than thirty thousand copies."

It may be interesting to those who never saw Mr. Greenleaf, to have a portrait of him, drawn by a familiar hand.¹ His brother Jonathan, in his "Genealogy," says: "Mr. Greenleaf was a grave, sedate-looking man, and very quiet in his movements. He was about five feet ten inches in height, rather stout built, full face, with a small, sharp eye, nearly black: His original hair was very dark brown." I may add from my own personal observation, that his complexion was sallow, his posture a little stooping, with his head projecting forward: his countenance was expressive of

¹ Since writing this memoir, we have been able to obtain an excellent portrait of Prof. Greenleaf to adorn our volume, to which we take pleasure to refer our readers.

benignity and intelligence. His brother thus continues his personal description: "Religion was not with him a dry system of doctrines, but a living and active principle of love to God and love to man. For the last thirty years of his life, he was one of the most spiritually-minded men, evidently intent on walking humbly with God, and doing good to the bodies and souls of his fellow-men. Thus he moved quietly on as years increased upon him, with the evidence of his piety becoming brighter and brighter, especially to those who saw him in private life."

Some other traits of character we notice in a brief biographical sketch published in the Cambridge Chronicle immediately after his death. "As an instructor, he was greatly beloved, and his lectures were clear, distinct, and practical. As a counsellor, he was clear, safe, and practical. His advice was always characterised by a weight of common sense as well as legal skill. As a man, he possessed a weight of character which insured for him the esteem of all who enjoyed his society, or came within the circle of his influence. Affable, polite, courteous, frank, and liberal-minded, he secured the confidence of his fellow citizens and neighbors. Combined with varied and legal attainments, he possessed great simplicity of character, which seemed to set off as in bold relief, those characteristics for which he was so truly distinguished."

The bar of Suffolk and Cumberland, on receiving tidings of the death of Prof. Greenleaf, immediately held meetings, and adopted appropriate and feeling resolutions. At the assemblage of the Suffolk Bar, the venerable Justice Wilde presided, and made some suitable remarks on the professional life, eminence, and character of Mr. Greenleaf. Charles G. Loring submitted the resolutions with a few introductory observations. One of the resolutions was as follows: "That as Americans, we owe him a debt of grati-

As a writer and author, Professor Greenleaf stands deservedly high, and may be ranked, among American authors, in the class with the learned jurists, Kent and Story. The estimation in which his works are held, and their merits, may be inferred from the following remarks of Professor Parsons: "His reports are among the most valuable of American Reports: his edition of Cruise has entirely superseded, for American use, the English edition. It is, however, in his work on the Law of Evidence, that we find the best proof of his industry, his learning, and his sagacity. He certainly intended it, at first, mainly as a manual for students. But the profession took it up; and, as repeated editions were demanded, it grew upon his hands; and has grown equally in public favor, until it has overcome all competition, and become *the* book which every student and every practicing lawyer must have. How completely it has monopolized the public favor, may be inferred from the fact, that of the several volumes, there have been printed in this country,—if we include the second edition of the third volume now going through the press,—but very little less than thirty thousand copies."

It may be interesting to those who never saw Mr. Greenleaf, to have a portrait of him, drawn by a familiar hand.¹ His brother Jonathan, in his "Genealogy," says: "Mr. Greenleaf was a grave, sedate-looking man, and very quiet in his movements. He was about five feet ten inches in height, rather stout built, full face, with a small, sharp eye, nearly black: His original hair was very dark brown." I may add from my own personal observation, that his complexion was sallow, his posture a little stooping, with his head projecting forward: his countenance was expressive of

¹ Since writing this memoir, we have been able to obtain an excellent portrait of Prof. Greenleaf to adorn our volume, to which we take pleasure to refer our readers.

benignity and intelligence. His brother thus continues his personal description: "Religion was not with him a dry system of doctrines, but a living and active principle of love to God and love to man. For the last thirty years of his life, he was one of the most spiritually-minded men, evidently intent on walking humbly with God, and doing good to the bodies and souls of his fellow-men. Thus he moved quietly on as years increased upon him, with the evidence of his piety becoming brighter and brighter, especially to those who saw him in private life."

Some other traits of character we notice in a brief biographical sketch published in the Cambridge Chronicle immediately after his death. "As an instructor, he was greatly beloved, and his lectures were clear, distinct, and practical. As a counsellor, he was clear, safe, and practical. His advice was always characterised by a weight of common sense as well as legal skill. As a man, he possessed a weight of character which insured for him the esteem of all who enjoyed his society, or came within the circle of his influence. Affable, polite, courteous, frank, and liberal-minded, he secured the confidence of his fellow citizens and neighbors. Combined with varied and legal attainments, he possessed great simplicity of character, which seemed to set off as in bold relief, those characteristics for which he was so truly distinguished."

The bar of Suffolk and Cumberland, on receiving tidings of the death of Prof. Greenleaf, immediately held meetings, and adopted appropriate and feeling resolutions. At the assemblage of the Suffolk Bar, the venerable Justice Wilde presided, and made some suitable remarks on the professional life, eminence, and character of Mr. Greenleaf. Charles G. Loring submitted the resolutions with a few introductory observations. One of the resolutions was as follows: "That as Americans, we owe him a debt of grati-

tude, for by his science and erudition, he has illustrated the judicial literature of his country at home and abroad, and added another American name with those of Story, Kent, and Wheaton, to the great legal authors of Christendom. That by his laborious, genial, and successful services as teacher of the law, in the school at Cambridge, he has deserved the gratitude of his country." Judge Hoar, in response to the resolutions presented in court, said, "Among those eminent lawyers, who have never held judicial station, the name and opinions of Mr. Greenleaf stand highest as authority, in all matters of law. I consider his death a great public loss."

Judge Emery presided at a meeting of the Cumberland Bar, held October 11th, and Charles S. Daveis presented the resolutions, which paid a high tribute to the intellectual and moral worth of Mr. Greenleaf, and an affectionate recollection of the kind and social relations that had existed between them. One of the resolutions thus speaks: "Resolved, That under a sense of the solemn impression produced by his lamented loss, and the length of time to which his works may last, we could not better express our affectionate regard for his worth, and render more justice to his memory than by the inscription suitable to be placed on his monument, that it was the aim of his instructions and writings, in accordance with the purpose of his life, to improve the tone, and raise the standard of professional morality, no less than the scale of legal excellence; and that he sought to sustain the solemn sanctions of the divine law, by exhibiting confirmed grounds of evidence in attestation of Christian truth."

Mr. Daveis spoke feelingly to the resolutions, and in high commendation of Mr. Greenleaf, as did also Judges Emery and Parris, Gen. Fessenden, and others.

CALVIN SELDEN. 1808—1859.

Calvin Selden of Norridgewock died November 29th, 1859, at the age of eighty. Mr. Selden was a descendant, in the sixth degree, from Thomas Selden, one of the company of the Rev. Thomas Hooker, who came over to Cambridge, Massachusetts, in October, 1633; from which place he migrated to Hartford, Connecticut, in 1636, and was made freeman in 1640. The parents of Mr. Selden were Joseph and Susannah (Smith) Selden of Haddam, Connecticut, where he was born February 28th, 1779.

Mr. Selden spent the early part of his life on his father's farm; but having a desire for an education, he changed the course of his pursuits. His father wishing him to become a minister, he prepared for college, and entered Dartmouth, from which he took his degree in 1803, at the age of twenty-four. A certificate from President Wheelock, at this time, is so honorable to this graduate, that I will not withhold an extract from it. "He is a young gentleman of talents and unblemished moral and religious character, of respectable acquirements in the different branches of collegiate literature, and of accomplishments in music."

He immediately after took charge of the Gilmanton Academy in New Hampshire, which he kept for two years, at the same time pursuing his studies in divinity. He was duly licensed as a preacher, and officiated in several parishes, but his performances not coming up to his own ideal of excellence, he suddenly abandoned that profession, and devoted himself to law. On being admitted to the bar, he came to Norridgewock in the autumn of 1808, at a most favorable juncture. Efforts were then making for the establishment of a new county from the territory constituting the northern part of Kennebec, which resulted in the incorporation of Somerset County, March 1st, 1809, with

tude, for by his science and erudition, he has illustrated the judicial literature of his country at home and abroad, and added another American name with those of Story, Kent, and Wheaton, to the great legal authors of Christendom. That by his laborious, genial, and successful services as teacher of the law, in the school at Cambridge, he has deserved the gratitude of his country." Judge Hoar, in response to the resolutions presented in court, said, "Among those eminent lawyers, who have never held judicial station, the name and opinions of Mr. Greenleaf stand highest as authority, in all matters of law. I consider his death a great public loss."

Judge Emery presided at a meeting of the Cumberland Bar, held October 11th, and Charles S. Daveis presented the resolutions, which paid a high tribute to the intellectual and moral worth of Mr. Greenleaf, and an affectionate recollection of the kind and social relations that had existed between them. One of the resolutions thus speaks: "Resolved, That under a sense of the solemn impression produced by his lamented loss, and the length of time to which his works may last, we could not better express our affectionate regard for his worth, and render more justice to his memory than by the inscription suitable to be placed on his monument, that it was the aim of his instructions and writings, in accordance with the purpose of his life, to improve the tone, and raise the standard of professional morality, no less than the scale of legal excellence; and that he sought to sustain the solemn sanctions of the divine law, by exhibiting confirmed grounds of evidence in attestation of Christian truth."

Mr. Daveis spoke feelingly to the resolutions, and in high commendation of Mr. Greenleaf, as did also Judges Emery and Parris, Gen. Fessenden, and others.