

LIVES
OF
EMINENT LAWYERS AND STATESMEN
OF THE STATE OF NEW YORK,
WITH
NOTES OF CASES TRIED BY THEM,
SPEECHES, ANECDOTES,
AND
INCIDENTS IN THEIR LIVES.

BY
L. B. PROCTOR,

AUTHOR OF "LIVES OF THE NEW YORK CHANCELLORS," "LAWYER AND
CLIENT," ETC.

VOLUME II.

NEW YORK:
S. S. PELOUBET & COMPANY,
LAW BOOK PUBLISHERS.
1882.

S
408NY
PRO

Brody Col
N5672

Entered according to Act of Congress, in the year 1870,

By L. B. PROCTOR,

in the office of the Librarian of Congress, at Washington.

Rec. June 5, 1902.

NICHOLAS HILL.

Remarks of an Eminent Writer Concerning Erskine Apply to Mr. Hill.—His Character in some Respects Resembles J. C. Spencer.—Hill's Devotion to his Profession.—His Ambition Confined to it.—The Professional Eminence which Mr. Hill Attained.—His Youthful Characteristics.—Becomes a Law Student.—Is Admitted to the Bar.—He turned all his Intellectual Efforts to Law.—Commences Practice at Amsterdam, New York.—Removes to Saratoga.—Judge Cowen.—Hill forms a Copartnership with Sidney Cowen, Esq.—Engages in the Preparation of the "Notes to Phillips's Evidence."—Mr. Hill's Love of Justice illustrated.—The Will.—The Insidious Designs of a Father Thwarted.—His Rage.—The Lawsuit and the Result.—Mr. Hill's Progress at the Saratoga Bar.—He is Appointed State Law Reporter.—Character as a Reporter.—Removes to Albany.—Forms a Partnership with Messrs. Cagger & Porter.—The Character of the Firm.—Mr. Hill gave his Profession no Divided Allegiance.—Entered into Law as Newton did into Astronomy.—Resembled Lord Brougham in his Capacity for Physical and Mental Labor.—Description of Hill's Labors During the Session of the Court of Appeals.—Mr. Hill's Appearance at the Bar of the Court of Appeals Described.—Anecdote.—Incident connected with the late M. S. Newton.—Can Courts be Influenced?—Interesting Incident Related by Mr. Hill.—Its Effect.—Personal Characteristics of Mr. Hill.—His Capacity as a Jury Lawyer.—Manner before a Jury.—His Physical Powers begin to Fail.—Retires from the Bar for a time.—Hopes of his Friends.—His Sudden Death.—Scene in the Court of Appeals on the Announcement of his Death.—Eulogy of J. H. Reynolds.

To describe Mr. Erskine at the bar, says a writer, is to ascertain the highest intellectual eminence to which a barrister under the most favorable circumstances may safely aspire; and the remark will apply to Mr. Hill, for it is no exaggeration to say of him, that he belonged to the front rank of American lawyers.

In some of his characteristics he resembled John C. Spencer; they were both creatures of pure intellect, active and restless—men of vast research, vigorous logic, practical wisdom, unwearied industry, and capable of immense intellectual labor. Both were wanting in enthusiasm, creative imagination, fancy, and poetic

fervor; and both were close, critical, reasoning lawyers. But here the analogy ends; for much of the power which impelled Spencer to action was political ambition; this led him into a varied career, in which opinions and personal relations were subordinate to political ambition. He divided his great talents and his extensive learning between the bar and the political arena, between the duties of the legislator and the cabinet minister.

Mr. Hill, on the contrary, concentrated all the powers of his mind upon his profession. This gave him a mastery at the bar which few men are capable of attaining. He disliked politics, and there was nothing in official position that could attract him from the one chosen sphere to which he devoted himself. He was ambitious, but his ambition was that of the lawyer divorced from politics, and, therefore, his knowledge of the law, his power of applying it to practical use, of wielding its subtleties with facility, of grasping the points in a legal question, and separating truth from error, rendered him unequalled at the bar of the State.

Though Nicholas Hill gained the highest eminence in his profession, and adorned the American bar, yet he was never desirous of "decking himself with those trappings of learning, or of swelling out his reputation above its natural bulk, by those adventitious honors which are so easily acquired in this country, where every city is filled with learned societies amply furnished with sounding names and a large list of well titled officers."

His life was unvaried by those events which excite the ambition of the politician or the statesman. It was spent over books, whose pages were often illumed by the midnight lamp, before courts—before grave and learned judges, whose deliberations were aided and whose minds were enlightened by his learned and powerful arguments.

Nicholas Hill was born in the county of Mont-

gomery, New York, October 16th, 1806. His father was a Revolutionary soldier, who, on leaving the army, became a preacher of the Gospel, and lived to a very venerable age.

Young Hill early exhibited a love of books, an unusual strength and tenacity of memory—a desire for knowledge—a meditative mind, which, with an indomitable energy and perseverance, enabled him, with but little aid from his father, to acquire sufficient classical learning to commence the study of law with profit and success. As a law student, he exhibited the same unwearied powers of research which characterized him amid his brilliant and successful career at the bar.

It was once remarked of Dr. Chalmers, that whatever science he happened to touch, was instantly transmuted into theology; and it may well be said of Nicholas Hill, that whatever facts or principles within the range of human knowledge, at any time excited his attention, became subservient to one common purpose, and aided to render him more accomplished and learned in his profession; for, in the operations of the intellect, as well as of the will, the prevailing passion, like Aaron's serpent, swallows up all the rest.

After his call to the bar he commenced practice at Amsterdam, meeting with ordinary encouragement. At length he removed to Saratoga, where he made the acquaintance of the late Judge Esek Cowen, "whose life seemed to offer that example of singleness of purpose, devotion to his profession, and unwearied industry, upon which he molded his own career."

He afterwards formed a copartnership with Sidney Cowen, Esq., a son of Judge Cowen. Associated with Mr. Cowen, he prepared that great work known to the legal profession throughout the nation, and in England, as "*Cowen & Hill's Notes to Phillips on Evidence*," which remains a lasting monument to the ability, energy, industry, and learning of its authors;

a work which may be considered a law library by itself.

There was in the character of Mr. Hill an innate love of justice and right ; hence he could not tolerate injustice, duplicity, or fraud, "could not be petty, unfair, or disingenuous ;" and in all his practice he never, if it was possible for him to prevent it, allowed injustice to triumph. These traits were illustrated by an incident which occurred early in his career.

While at Amsterdam, soon after his admission to the bar, he was called upon to draw a will for a man by the name of Christian—a farmer, whom he held in high esteem. This man had been ill for a long time, and, aware that he was near his end, desired that his matters should be properly adjusted before his death. He was about forty years old, with a wife and two children—a daughter ten years of age, and a son of six. His property amounted to twenty-five or thirty thousand dollars which he had accumulated since his marriage.

Christian had a father, a hard, grasping, insidious old man, with a strong controlling character. For several weeks he had been constantly with his son.

On arriving at the residence of his friend, Mr. Hill was received with great cordiality by the elder Christian, who at once assumed a very confidential manner towards him ; so attentive was he to the young lawyer, that he hardly gave him an opportunity to pay his respects to Mrs. Christian.

"Mr. Hill," said she, "I am very glad you have come ; I know you are my poor husband's friend, and—and—I wanted to"—

"Never mind, Mary, John is waiting for us, you know, and Mr. Hill has no time to hear any lengthy talk. This is the way, sir. John is quite low, and what is done must be done immediately," said the old man, moving towards the room where the sick man lay. The look which the grief-stricken woman

gave the lawyer as he parted with her, spoke volumes, which, with the actions of the elder Christian, convinced him that there were matters below the surface, which he ought to understand.

On entering the sick-room, the old man took his seat by the bed of his son, in that business-like manner, which clearly indicated that he was to be a party to the business in hand.

Mr. Hill conversed a few moments with the sick man on general topics, and then asked him if he was ready for him to commence drawing the will.

“I am,” was the reply.

“Then you will please retire, for I am accustomed, when engaged in drawing a will, to be entirely alone with the testator,” said Mr. Hill to the elder Christian.

“Oh! this matter is all understood between John and me, and it is his wish that I remain in the room, isn't it, John?” said he.

The sick man gave a faint response in the affirmative, which convinced Mr. Hill that his first impressions were right, and he was determined that the old man should leave the room.

“Mr. Christian,” said he, “I cannot draw this will until you leave this room; if you insist upon remaining, I shall leave at once.”

“But my son is very weak, and will need me here to nurse him while you are at work.”

“I will see to that; I shall not be engaged long, and I will undertake to care for him while I am engaged,” said Mr. Hill.

“Father, I think you had better retire; Mr. Hill is an old friend of mine; I can trust him, and I want him to draw my will, very much,” said Christian.

“Well, John, I can go; but you must not forget—you must remember to—take your medicine,” said the old man, giving his son a peculiar look as he was leaving him.

“Christian,” said Mr. Hill, as soon as the door closed on his father, “now tell me the manner in which

you desire to dispose of your property, and I will soon prepare your will accordingly.”

In a few words, the sufferer informed him that he proposed to give his daughter eight hundred dollars, for the purpose of educating her, and all the residue thereof, after deducting his wife's thirds, was to be given to his father in trust for his son, who was to receive it when he attained his majority. The old man to be named as sole executor. These were substantially the conditions of the will.

This greatly astonished the lawyer, and he felt confident that left to himself, his friend would never make such an unnatural disposition of his property; he believed, and justly too, that the iron will of the old man had influenced his son to give him the possession of his property for fourteen years, and, in effect, to disinherit the daughter. He now fully understood the pleading look of Mrs. Christian, and why she was so anxious to see him; he was in great doubt as to the manner in which he should proceed. The way in which his client disposed of his property, was clearly nothing to him, and yet he did not regard it as his duty to permit such a flagrant act of injustice. After a few moments' reflection, he said:

“Mr. Christian, you are, as you say, on your dying bed; now let me ask you if you really desire to dispose of your property in the manner in which you have just stated?”

“Oh, Mr. Hill, I have been through so much—have suffered so much, and have had so many things said to me, that I don't care what becomes of my property—but I—I—think—I hope my father will do what is right—he's promised me he would.”

“This business is nothing to me, Mr. Christian; but it is your duty to deal fairly and justly with both your children, and to dispose of your property as to you seems just, uninfluenced by others. It is *your* will that I have come to draw, Mr. Christian; now is the time to exercise your own judgment, so that when

this business is done you will feel conscious of having discharged your duty fairly, impartially, and unadvised, according to the dictates of your own heart," said Hill.

After reflecting a few moments, Christian said :

"Mr. Hill, promise me that you will be a friend to my poor wife and children when I am gone."

The promise was given. He then directed Hill to commence the will, and he would dictate the conditions. When the instrument was nearly completed, the lawyer asked him who he desired to act as executor.

"My father expects—but no matter, as the will reads, he had better not act. Will you not act, Mr. Hill?" asked Christian.

"No, I cannot act; you should select some very near relative, one whom you have always esteemed and trusted, one who has some deep feeling for you," was the answer.

"Can my wife act?"

"Certainly."

"I should like to have her act very much, but then it would displease my father terribly; and I tell you, Mr. Hill, he's a fearful man when his anger is aroused," said Christian.

"You have no doubt of her capacity, I suppose."

"No, she has more than ordinary ability, or I should not have had this property; and she has been the kindest and truest friend I ever had in this world"—

"And the mother of your children, Mr. Christian," said Mr. Hill, interrupting him.

"Oh, yes, yes, and you may make her my executrix. If she was faithful to me while living, she will be so when I am dead; but you must protect her from my father."

Accordingly, Mrs. Christian was named sole executrix; two reliable neighbors were called in for witnesses, the will was duly signed in their presence, and

by request of Mr. Christian, Mr. Hill was made the custodian of it until it was proved. The lawyer then took leave of his friend.

As he was passing through the hall which led to the street, he was met by the old man who, with many smirks and smiles, said :

“ Well, Mr. Hill, the will is all right, is it? John knows pretty well what he’s about and who he can trust, I assure you. Where is the will ?”

“ In my pocket,” was the reply.

“ Well, I’ll take it; that was the understanding.”

“ I am directed to keep it, Mr. Christian, until it is needed for proof,” said Mr. Hill.

“ Well, I don’t know but that will do, though it ain’t as we talked,” said the old man, and Mr. Hill departed.

After the death of Mr. Christian, the will was opened and read in the presence of the family and friends. It proved to be a very different affair from what the elder Christian expected.

It provided for an equal distribution of the property of the deceased between the two children. After giving the widow a liberal portion, the remainder was left in her hands, in trust for her children, until they were of age, making ample provision for their support; it also provided for their education.

The rage of old Christian knew no bounds, when he heard these conditions of the will, and he prepared to contest its validity. With scarcely any chance for success, he commenced proceedings to annul it. Everything that legal ingenuity could suggest was brought to bear against it, and one of the most important litigations in Mr. Hill’s early practice ensued; but it ended in the triumph of the widow, adding much to the reputation of Mr. Hill as a lawyer. The infant son of the deceased grew to manhood, removed to Chicago in the early days of that city, and became a man of wealth. He died in the year 1867, ever retaining a veneration for the name of Nicholas Hill.

The unassuming manner and native modesty of Mr. Hill tended at first to retard his progress at the bar. Though a close and powerful reasoner, he did not possess those showy elocutionary qualities which dazzle the multitude and bring a lawyer rapidly into notice. Though he loved the forum and delighted in its contests, yet there were many of the attributes of the retiring scholar in his nature, and hence he derived the most sincere pleasure in the silence and retirement of his study.

He had many qualities which constitute the successful jury lawyer, and gradually attained a high position as an advocate. Marcus T. Reynolds and Samuel Stevens, for several years his great rivals in the profession, had been distinguished at the bar of the Supreme Court in banc and in the Court for the Correction of Errors, a long time before Mr. Hill was known in either of those tribunals.

But from his first appearance there, he created a very favorable impression on the minds of all the members of the court. In the case of *Tilden v. Gardiner*, which was one of the earliest argued by him before the General Term his argument was listened to with profound attention by both the bench and the bar. "We shall hear from that man very often hereafter," said Chief Justice Nelson to Judge Bronson, as he was folding the papers in the case, after the conclusion of Mr. Hill's remarks. Doubtless the reputation which the *Notes to Phillips on Evidence* had given, aided him in gaining the confidence of the judges, and in obtaining the appointment of State law reporter in 1841. The manner in which he prepared these reports greatly enhanced his reputation. They are characterized by the same methodical and expansive mind which is conspicuous in all his works.

He was one of the most accomplished and accurate special pleaders in the State, and few exceeded him in the faculty of analyzing a complicated

question, or clinching a contested conclusion. These qualifications greatly aided him in the labors of reporting the adjudicated cases of the State courts, enabling him to adjust them so that the student or practitioner could determine at a glance the real points decided in them. Soon after receiving this appointment he removed to Albany, where he resided the remainder of his life.

He occupied the position of State reporter five years, when his increasing legal business compelled him to resign. Soon after his resignation, he formed a copartnership with Peter Cagger and John K. Porter, constituting a firm which combined every variety of legal talent—a firm which was distinguished for its capacity and for the vast amount of legal business which it controlled. Each of its members possessed attainments which gave them superiority at the bar, or in whatever intellectual field they chose to enter.

Mr. Hill devoted himself to the General Term and the Court of Appeals; at length his business at the latter court increased to such extent that he was compelled to confine himself almost exclusively to that tribunal.

Many of his compeers at the bar gave to their profession divided allegiance, or loved it for the applause it brought, and the rewards it secured. With Mr. Hill this was a secondary consideration; he entered into the investigation and research of the law as Newton, Kepler, and Galileo did into the science of astronomy—Handel and Mozart into harmony—Cuvier into the study of mollusca—Stewart, Locke, and Hamilton into metaphysics.

With him it was the application of an ardent and scholastic mind to its favorite theme. As the powerful lens of Herschel swept the heavens discovering new stars, orbs, and sidereal bodies, measuring their proportions by practical mathematical principles, so the intellectual lens of Hill was turned to the field of

judicial science ; through it he observed and scanned every principle of the written and unwritten law, compared every conflicting precedent, revealed the hidden treasures of musty tomes, rendering them applicable to modern jurisprudence. Thus the labor which he performed was astonishing.

In his capacity for intellectual and physical endurance, he resembled Lord Brougham, of whom it was said he was not one, but legions. "At three in the morning he would make a reply in Parliament, which blanched the cheeks and appalled the hearts of his enemies ; at half past nine he would be found in his place in the court room, working out a case in which a bill of five pounds was disputed, with all the plodding care of the most laborious junior. This multiplicity of avocation and division of talent suited the temper of his constitution and mind. Not only did he accomplish a greater variety of purpose than any other man—not only did he give anxious attention to every petty cause, while he was fighting a great political battle and weighing the relative interests of a nation—not only did he write an article for the *Edinburgh Review* while contesting a county, and preparing complicated arguments on Scotch appeals by way of rest,—but he did all this as if were perfectly natural to him." The labors of Brougham, though more desultory than those of Hill, were not more intense or more enduring.

During the sessions of the Court of Appeals he was constantly in his seat at the bar, from the opening to the close of the term ; concerned in nearly three fourths of the causes on the calendar. He was often engaged in the argument of a case during the entire day, and at night retiring to his study, he would remain there until after the clock tolled the hour of midnight ; "the fire which burned in the tough fabric of his intellect" as undimmed when the last page was turned—the last note made, as it was when he first arose in the morning.

During vacation he would be in his office during the day, and continue his labors far into the night. Thus he prepared those voluminous briefs on whose pages there was often a reference to many hundred cases; each one of which he had thoroughly studied and analyzed.

Strangers visiting the court room at Albany always desired to have Mr. Hill pointed out.

In the summer of 1857, a young law student from Rochester, with a friend who resided at Albany, visited the Senate chamber where the Court of Appeals was sitting. There were in the bar at the time, a large number of lawyers from various parts of the State. After looking over the bar for some time, the young man inquired if Nicholas Hill was in the court room. His friend replied, "He is, and I want you to point him out, if you can." Scanning each face within the bar with great scrutiny, the student at last fixed his eyes upon a man a little below the medium height, slenderly built, with a sharp and somewhat wrinkled face, but full of fire and intelligence, dark hair, in which the silver lines of advancing years began to be blended, and who carried one of his arms in a peculiar manner.

"That, according to the description which I have often heard, is Mr. Hill," said the young man, pointing to the person who has been described.

"You are right, that is Nicholas Hill, a lawyer more thoroughly identified with this court than any other lawyer at the bar."

The courtesy and generosity of Mr. Hill to his brethren of the bar, especially the younger members, was proverbial; he instantly perceived and liberally acknowledged their merits.

The late M. S. Newton, a highly respectable member of the Rochester bar, in the early days of his practice had a case in the Court of Appeals, which he prepared to argue himself. He had conversed with Mr. Hill on the leading points in the case, who assured him that, though the questions involved were

difficult and intricate, yet he believed the law was with him. The suit had been contested inch by inch from the Circuit to the Supreme Court, and from thence to the Court of Appeals, and in every instance it had been decided against Mr. Newton.

The term at which it was to be argued finally commenced its sittings, and Mr. Newton proceeded to Albany to argue his case. Soon after his arrival, he learned that the late William Curtis Noyes and Ambrose L. Jordan were to argue it against him. Alarmed by this intelligence, he sought the assistance of Mr. Hill.

“I will assist you, Mr. Newton,” said Mr. Hill, “if you desire me to do so; but let me advise you to argue it yourself; you have the ability, you are thoroughly prepared—you can do much better without me than you can with me. Young lawyers often injure their cause by calling to their assistance what is termed able counsel. If you succeed in a contest like this, alone and unaided, you will be entitled to all the credit.”

“But, Mr. Hill, only think of the array of talent that is against me, and the great influence of my opponents with the court,” said Newton.

“As to the talents of your opponents, although I admit it is great, yet you need not fear it; the law books reveal the same truths to you that they do to them, and as to influence with the court—I hear very much said about that, but depend upon it, the influence of this or that person, in our courts, amounts to nothing at all. If you have the law with you, that is the highest influence you can secure.

“In my early practice, I was once induced to procure the aid of a lawyer, who was supposed to have great influence with the court, to assist me in urging the judge to inflict a very light sentence on a client of mine, who had been convicted of an offense in which there were mitigating circumstances, and which ad-

mitted of a severe or a light punishment, in the discretion of the court.

“The lawyer to whom I applied, was at the time a State senator, and was really a man of great influence and ability; while I was young and inexperienced, and almost a stranger to the judge. My client was a man of some standing in the community in which he lived; his sentence was suspended until the last day of the term; when he was brought into court to receive it, his wife and children accompanied him, by the advice of my associate, who believed that their presence would aid him in softening the minds of the court. I saw by this, that even he needed outside influence to aid him, powerful as he was supposed to be with the court.

“My friend made a pathetic appeal to the court. It was apparently very effective, and I believed, with his great influence he would succeed in convincing the judge that my client should only be fined some nominal amount and discharged, but what was my astonishment and horror when I listened to a sentence which was to incarcerate him in jail for one year, and compel him to pay a fine of two hundred dollars. I will not attempt to describe the scene that followed; suffice it to say, that wife, children, friends, and myself, were plunged into the deepest sorrow. The influence of my counsel had failed and my client was ruined.

“The court adjourned for dinner, but my appetite was gone,—instead of going to the table, I stole away to a grove not far from the court house to hide my own grief and sorrow, for I had taken that interest in my client which rendered his case my own. At length I resolved to make an effort myself, to induce the court to modify the sentence.

“Before the bell ceased ringing I was in the court house; the moment the crier’s proclamation was ended, I was on my feet, and to the astonishment of the bar and spectators, I opened the motion for a

modification of my client's sentence. I do not know what process of reasoning I adopted, or what language I used ; all I know is, that I threw my whole soul into my speech—that there was an entire surrender of what little ability and eloquence I possessed.

“After I took my seat, the judges consulted a few moments, and then I had the satisfaction of hearing the presiding judge announce that the court on further deliberation had decided to modify the sentence against Jacob Craig, so far as to remit the imprisonment, and to reduce the fine to the sum of fifty dollars. I need not tell you how great was my triumph ; had a fortune been laid at my feet, had I suddenly been lifted to a sphere of worldly grandeur, it would have been nothing compared with the joy I felt at this announcement.

“My poor client was in jail, surrounded by his weeping children and heart-broken wife. I hastened to him, and when I informed him that he was released, he sunk pale and almost fainting into a chair. I shall never forget that scene—it was one which no actor could imitate. At length he found words to inquire of me how this was brought about.

“‘Did Mr. M. go and talk to the court again for me?’

“‘No, he was not in the court room.’

“‘Whom did you get to talk for me that was powerful enough with the court to have me released?’

“‘No one ; I did all the talking myself,’ said I.

“‘What, you, such a young lawyer as you talk to the court—I thought you told me I must have a man of great influence, and one that was well known to the court?’ said my client.

“‘I did think so, and employed such a man, but rather than have you lay a whole year in jail, and pay so much money, I concluded to see what I could do for you,’ said I.

“Tears of joy, overflowing thanks, prayers for my future success in life, followed. I have the satis-

faction of knowing that for a long time those prayers were repeated in a family rendered happy by my efforts, which restored to them a husband and father, who, ever after, was an exemplary member of society.

“I have related this circumstance to you, Mr. Newton, to convince you that there is nothing in what is termed personal influence with courts. The result of my professional experience is, that he who thoroughly understands his case and the law applicable to it, will always have the attention of the judges, and this is all the influence which the most eminent advocate can ever have in our courts. Once more let me say, argue this case for yourself; never stop to consider who is against you, there is not so much difference after all between men as some suppose, and as I have already said, the language of the law is the same to all.”

This conversation made a deep impression on the mind of Mr. Newton; it encouraged him to undertake the argument of the case alone, which he did with such success that it was decided in his favor.

The hold which the domestic and social ties had on Mr. Hill, affords one of the most pleasing glimpses of his character. Such was the kindness of his nature, that even his prodigious professional labors did not exclude those amenities to friends, those affectionate attentions to kindred, for the neglect of which multiplied cares are often admitted as an excuse.

As over the hardest stones the softest moss will force its verdure and sustain its life, so amid intense toil the gentler features of his nature developed themselves as years rolled by, rendering his relations to his friends, his associations with the gifted men by whom he was surrounded, more pleasing and attractive; causing his powerful energies to blend in harmony with all his social and family connections.

Mr. Hill's manner at the bar was calm, dignified,

natural, and unassuming. The vivacity and strength of his mind, his prodigious quickness of conception, his plain but ready language, rendered him an effectual speaker in the forum. He gained the attention of jurors by the natural force of reason; his language was never above or beyond them; it went direct to their understanding. He considered the case at bar with them, viewed it from their standpoint; and he "dexterously accommodated himself to what he detected to be the passing mood of each of the twelve," leading them instead of driving them to their conclusions.

One of the most powerful weapons which an advocate can use is candor. This was possessed by Mr. Hill, and it was, indeed, formidable in his hands. Without any parade of learning, he convinced the judges that he had examined every phase of the question he was arguing, and was, therefore, capable of enlightening their minds, and aiding them in their deliberations; hence, he was strong at *nisi prius*, still stronger before the court in banc.

His habits of life were regular and frugal, the only excess in which he indulged being his intense, never ceasing application to his books, the study of his cases and his briefs.

At length the physical powers of Mr. Hill, which were never strong, began to yield to constant and unrelaxed labors; with the flight of each week this became more and more apparent, until finally his friends persuaded him to suspend his professional toils. He yielded to their advice, and they soon had the satisfaction of seeing his bodily strength and vigor return, and his energies revive; thus he continued for several weeks, until he believed himself able to resume his usual duties. But alas, even at the moment when hope was highest with the prospect of returning health, he suddenly fell before the destroyer, and Nicholas Hill was numbered with the dead. This sad event occurred on the first day of

May, 1859. He was then in the fifty-fourth year of his age—at that period when the intellect is strongest and ripest, when he yet had years of activity, labor, and usefulness before him.

The intelligence of his death produced the most profound sorrow throughout the State, particularly among the members of the legal profession. When it was announced in the Court of Appeals, in that arena where he had so long been a prominent contestant, where he had occupied a place since the organization of the court, a scene of sorrow unequalled on such occasions and in such places followed.

Honorable John H. Reynolds, his law partner, who knew him, perhaps, better than any other person, and to whom he was tenderly attached, arose to pay a tribute of respect to his memory. For a time the emotions of the speaker overcame him, his voice faltered, and his tears flowed. The bench and bar were no less affected. Grave judges, strong and gifted lawyers wept, and in the temple of justice grief prevailed. At length, gaining sufficient composure to proceed, Mr. Reynolds pronounced the following beautiful, appropriate, and affecting memorial.

“If your Honors please—Since the last meeting of this court, one who has been accustomed to welcome your return has suddenly been called away. His place at this bar is vacant, and will be filled by him no more forever. While yet busy in the great labors of his life, and in the very fullness of his intellectual stature, Nicholas Hill has unexpectedly left the employments of earth, and entered upon the realities of another life. His departure from among us was so sudden, that those who were most intimately associated with his daily avocations, were scarcely made aware of his illness before the sad intelligence of his death was announced. An event so mournful could not fail to arrest public attention, and spread universal sorrow over the hearts of all who knew and honored him. To none beyond his immediate family circle,

did this great bereavement seem more near than to his brethren at the capital, who were the immediate associates of his professional life, and who were bound to him by the nearer relations of friendship and affection. To give expression to these feelings of respect and regard for his character and sorrow for his death, they assembled together with mournful feelings, and adopted resolutions expressing in some slight degree their esteem for his worth, their admiration for his great character as a lawyer, and their regret for his sudden and untimely death. They gathered in reverent grief around his bier, and followed to its last resting place in silence and tears, all that remained on earth of one so loved and honored. They desire to preserve some memorial of their regard for what he was, and I now present the record of their proceedings, with a request that in respect to his memory, they be entered upon the minutes of this court. It was in this place that he spent the later years of his life, and it is upon your records that the most enduring monuments of his labors exist; and we feel it to be appropriate that upon the field of his professional fame, there shall remain a fitting testimonial to his great character. The last effort of his professional life was made in this presence. It terminated the labors of the last term of this honorable court, and with him it was the close of a career that will be looked to as an example of all that can be achieved by a lofty intellect and unremitting labor. It was also the termination of a life crowded with all that is estimable in human character. I was with him as an adversary in his last public labor in the profession that he loved, and honored, and adorned. I was with him as a friend in almost the last hours that he spent in this life, and I come here to day to bring the tribute of his brethren to his exalted worth, and to add my own feeble expression of admiration for him as a lawyer, my reverence for his character as a man, and my affection for a lost associate and friend.

“It is not necessary in the presence of this court, to dwell upon the great qualities that formed the character of our lamented brother. You well know the measure of his luminous intellect, and the noble qualities of his great nature. You have been delighted and instructed with his eloquence and learning. Every volume that records your Honors’ judgments bears enduring evidence of the labors of Nicholas Hill. No man at this bar ever spent more time in valuable discussion, and none ever brought to the consideration of any question a greater amount of exact legal learning, or presented in a more attractive and impressive form the severer logic of the law. He never undertook the discussion of any question that he had not fully investigated, and of which he had not by attentive study and reflection made himself the master. The leading thought of his life was his profession. He loved its labors with enthusiastic devotion. No temptation could seduce him from its pursuit. If he relaxed his severer studies, it was to beguile an hour in the freedom of social enjoyment, or amid the delights of literature. His was a life of intellectual toil and of intellectual triumph. He was indebted to no adventitious aid for the honors that he won. They are the results of his own unaided intellect and of his own unparalleled industry. The reverence that we all feel for his great character is but the just tribute to exalted merit.

“His whole life was devoted to the loftiest of human pursuits.

“The administration of justice presents the noblest field for the exercise of human capacity. It forms, as has been well said, the ligament which binds society together. Upon its broad foundation is erected the edifice of public liberty. To lend humble aid in raising this structure is a valued privilege, but to stand pre-eminent among those who at the bar or upon the bench have beautified and adorned the temple of justice, is among the loftiest positions allotted to man.

From that proud eminence in the early morning of May Nicholas Hill descended to the tomb—closing a spotless life in the full maturity of his power, in all the warmth of his affections, and while yet the sun of his existence seemed at noonday. By those who value truth and honor manhood, who reverence intellect, and love all that is generous and noble in human character, his memory will be cherished as among the most precious recollections of life, and by the purest and greatest of those who survive him, his example may be viewed with profit; and it will be well with any, who at the close of life are worthy to fill a grave such as received all that was mortal of Nicholas Hill.

“By most all of those with whom the name of our departed brother was familiar, he will be remembered only as a great lawyer. To some of us he will be cherished in a nearer and kindlier relation. Those he honored with his regard will prefer to think of him as he was when he withdrew from labor and surrendered himself to the enjoyments of the hour. They will not forget his genial and generous nature, his graceful humor, the warmth of his friendship, and the thousand nameless qualities that made up the perfection of his character. Those who knew him only as the acknowledged leader of an honored profession, knew but little of the man. It was when, in the chosen circle of his friends, he left behind him his books and his briefs, that you were made acquainted with the excellent qualities of his heart. To those who knew him not, he may sometimes have seemed austere and distant, but to those he knew and loved, he was ‘sweet as summer.’ I prefer to cherish him as a valued friend, who has too early left us for an undiscovered country. I shall long remember our last interview on the last day of his life. Disease had laid its heavy hand upon him, but his mind was clear, and the energy and warmth of his affections had suffered no abatement. He felt con-

scious that he had been overtasked, and, I think, regretted that he had subjected his frail organization to such unremitting and exhausting toil. But he looked forward to the return of health, and to a season of repose; and yet there was a lingering doubt in his own mind, if that day would ever come. Alas! it never came. Within a few hours he passed from sleep to death, and there remains of him but the record of his toils and triumphs, and the memory of what he was. He died in the meridian of manhood, a victim to his own ceaseless devotion to the profession that now mourns his loss.

“ So the struck eagle stretched upon the plain,
No more through rolling clouds to soar again,
Viewed his own feather in the fatal dart,
That winged the shaft which quivered in his heart.’

“ However distinguished we may be or have been in this life, upon the bed of death man returns to his individuality. He must die unaided and unsupported by human effort. Neither the applause of his fellow men nor the affection of friends and kindred can support him in that hour. All the honors of earth are then as valueless to the possessor as the withered leaves which the winds of autumn will scatter over his grave. Those who sit in the judgment seat and dispense human justice will in their turn bow to that fixed and unalterable law of being, which dedicates all that is mortal to decay and death. In view of that solemn hour, the impressive lesson of the life and death of him we mourn will not pass unheeded. It comes too near us to be viewed with unconcern. I need not pause to impress it upon the attention of those who but yesterday looked into the new made grave of him, who, according to the standard of human judgment was entitled to “crown a life of labor with an age of ease;” but to whom, in the mysterious Providence of God, it was not permitted to find rest

from his labors, except amid the habitations of the dead.

“In that silent resting place, we leave him to the rewards which are promised to the pure in spirit, the blameless in life, and the upright in heart.”