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

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VOLUME II.

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

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Rec. June 5, 1902.

WILLIAM L. MARCY.

Birth and Parentage.—Enters Leicester Academy in the midst of the Excitement between Jefferson and the Federalists.—Mr. Adams, the Principal, a Strong Federalist.—Young Marcy an Admirer of Jefferson.—The Debating Club.—Jefferson Attacked in it.—Marcy Defends him.—Reasons for Jefferson's Popularity.—Interview between Dr. Adams and Marcy.—The former Demands that Marcy shall Cease Defending Jefferson in the Debating Society.—Respectful but firm Answer of Marcy.—The Expulsion.—Returns to his Parents.—Is Commended for his Firmness by them.—Enters College.—Graduates.—Removes to Troy, and Commences the Study of Law.—Admitted to the Bar.—His Professional Progress not Flattering.—Continues to Study.—Slow increase of Business.—War with England.—Marcy Second in Command of the Troy Light Infantry.—Tenders that Company to Governor Tompkins.—Is accepted.—The Company in active Service at French Mills.—Marcy assigned to lead the Attack on Fort Saint Regis.—The March.—The Sentinels.—The Attack.—The Contest, and the Victory.—The Trophies and the Prisoners.—General Dearborn.—Marcy's Company Attached to Colonel Pike's Regiment.—Colonel Pike Attacks the works of the British at Le Colle.—Marcy's Company Attacks the Indians with Slaughter.—Repulse of Pike.—Marcy's Time of Service Expires, and he Returns to his Profession.—Finds his Clients Scattered.—His Want of Professional Industry.—His Personal Appearance at this Period.—The Troy Female Seminary.—Mr. Marcy and the Ladies.—Marcy and the Heiress.—His Friendship for her.—No Romance in the case.—Is Reported to Faculty as Paying his Address to her.—The Elopement.—The Excitement.—The Pursuit.—The Parties Found, but no Elopement.—Chagrin of the Pursuers.—Astonishment of Marcy on learning that he has Eloped.—Great Merriment.—The Lady Graduates.—Meets Marcy at Washington with her Husband Years Afterward.—The Introduction.—Marcy as a Writer.—Effect of his Writings.—Martin Van Buren and Mr. Marcy.—Is Appointed Recorder of Troy.—Opposes De Witt Clinton.—Threatened Removal from the Office of Recorder.—The Removal.—Marcy Dependent on his Profession.—Is the Author of the Celebrated Address to Bucktail Members of the Legislature.—Appointed Adjutant-General of the State.—Appointed Comptroller.—The Finances of the State.—Supports Judge Rochester for Governor against Clinton.—Who was the Author of Jackson and Van Buren's Messages?—John Woodworth Resigns his Seat on the Bench of the Supreme Court.—Marcy Appointed in his Place.—Appointed to Hold the Lockport Oyer and Terminer for the Trial of Morgan's Abductors.—The Trial of Colonel Jewett.—Orsamus Turner, the principal Witness against Jewett.—Refuses to Testify.—Exciting and Thrilling Scene.—The Imprisonment.—Character of Judge Marcy as a Judicial Writer.—Contrast between Burke and Marcy.—Opinion of Judge Marcy in the case of the People v. Mather.—Judge Marcy appointed United States Senator.—His Reply to Mr. Clay in Defense of Van Buren.—He Sustains Jackson in his Policy.—Marcy at Harrisburgh.—Public Honors.—Speech.—Marcy Nominated and Elected Governor.—

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William L. Marcy was born at Sturbridge, now Southbridge, Worcester county, in the State of Massachusetts, December 12, 1786. He was descended from one of the oldest families in his native State. His father was Jedediah Marcy, a respectable farmer in comfortable circumstances. When William was in his fifteenth year, he was sent to an institution at Leicester, Massachusetts, known as the Adams' Academy, for the purpose of preparing for college.

At this time, the struggle between the Federalists and the Democrats or Jeffersonians was beginning to attain that point of uncompromising bitterness, which eventually rendered it memorable in the history of the nation.

Mr. Adams, the principal of the academy, notwithstanding his many virtues and his rare qualifications, was a strong and even bigoted Federalist, though honest and well-meaning; while young Marcy had inherited from his father, those strong Democratic tendencies which grew with his growth and strengthened with his years.

Thomas Jefferson was then the coming man; his simple manners, his opposition to the aristocratic tendencies of the Federal leaders, then exhibited itself "in combing his hair out of pigtails, discarding hair powder, wearing pantaloons instead of breeches, fastening his shoes with strings instead of elaborate buckles, and putting fine gentlemanism quite out of his heart." All this was pleasing, nay, captivating to those who preferred plain republicanism to

imitations of the court and customs of European sovereigns. To young Democracy, therefore, Jefferson, "the scholar, the philosopher, and the jurist," became a favorite and a leader; while, on the contrary, his very name was a horror to the Federalist, who represented him as an infidel to whom the Bible was repugnant and religion hateful. So terrible did his name at length become to his opponents, that many pious old ladies talked of secreting their Bibles in strong boxes, in case he was elected president, for fear he would seize them and commit them to the flames.

Dr. Adams shared liberally in this hatred to Jefferson, and he frequently prayed "in earnest wrestling," that the country might be protected from his influence.

There was a debating society connected with the academy, to which young Marcy belonged. Young as he was, he was one of the chief disputants, but the partizan sentiments of the principal prevailed in the society; Jefferson and his principles were often assailed with great bitterness. Young Marcy admired Jefferson, and he repelled these attacks single-handed and alone. The ability which he displayed in his defense began to exert an influence in the institution, and at length several of the students united with him, and the young student found himself the centre of a small, but increasing party. Dr. Adams now deemed it his duty to interfere; accordingly, he summoned young Marcy to his room, for the purpose of expostulating with him upon the course he was pursuing, in advancing and sustaining his dangerous political sentiments. To his surprise, he found the young Democrat as firm and unflinching in his presence, as he was in the debate. It was in vain that the good doctor reasoned, threatened, and cajoled. He was met with arguments which he was puzzled to answer, and which were firmly, but modestly maintained.

At length Mr. Adams saw that matters must be brought to a decided point.

"Am I to understand, then," said he, "that you are determined to openly advocate the course and the principles of that infidel, Jefferson, here in this institution?"

"If I hear him or his principles openly attacked and abused, I certainly shall defend him. If, however, you will forbid all allusion to politics, I will most cheerfully subscribe to the rule," said Marcy.

"It is my duty, sir, to expose error and wickedness in all ways and in every manner, and to teach my pupils to do the same; and therefore, I cannot establish such a rule," said the doctor.

"Then, sir, if you allow one class of students to discuss politics, you should give others the same privilege," said the young man.

"No, sir; not when one side proposes to advocate infidelity and all manner of evil," said the doctor.

"Who is to be the judge as to what political principles are erroneous?" asked Marcy.

"I am, sir; and to be plain, you must abandon all further public utterance of your sentiments here," was the reply.

"And if I do not obey this order, what is to be the consequence?" asked the student.

"You will be expelled from the institution, sir."

"This is bigotry and injustice, Dr. Adams, and I shall leave your institution. My father will sustain me in refusing to remain where free discussion is not tolerated—where narrow and bigoted sentiments can be advanced in the hearing of those who differ from them, and where the privilege of replying is forbidden," said Marcy.

The next day he left the academy, and returned home. He faithfully related to his father all that had occurred between himself and Dr. Adams; and both of his parents warmly commended him for the manly and independent course he had pursued. He was sent

to another institution, where more liberal principles prevailed.

At length he completed his preparatory course, and entered Brown University, at Providence, Rhode Island, where, in July, 1808, he graduated.

Having decided to enter the legal profession, he removed to Troy, New York. Here he commenced and completed his legal studies.

While a student at law he was an active politician, still adhering to the principles and policy of Jefferson. He frequently participated in political discussions, exhibiting an extensive knowledge of the political questions of the day, which rendered him a formidable antagonist and prominent as a politician.

After his call to the bar he opened an office at Troy; but as he was surrounded by old and experienced lawyers, and was wanting in those brilliant talents and those active energies which naturally attract the attention of the public, his professional success was not flattering. But he continued to pursue his legal studies with the same diligence that he did before his admission to the bar, perfecting himself in those solid acquirements which subsequently gave him his high position as a lawyer, judge and statesman.

The business with which he was entrusted was conducted promptly and with ability. The business men by whom he was surrounded began to discover in the modest and retiring young lawyer, legal abilities of a high order. He was one of those individuals, who, to be appreciated, must be thoroughly known, and, as his acquaintance extended, his business increased.

At length war with England was declared. Young Marcy was now at an age when there is a charm in a military life which is frequently irresistible. Yielding to the warlike spirit which pervaded the country, he determined to become a soldier.

At this time he held the rank of lieutenant in a light infantry company belonging to Troy, whose per-

fect drill and soldierly discipline rendered it the pride of the city. Soon after the declaration of war, young Marcy, acting for the company, tendered its service to Governor Tompkins. It was promptly accepted, and was soon at French Mills, now Fort Covington, the seat of war, on the northern frontier.

The company reached camp about the middle of September, 1812. For some time the young officer was compelled to remain in listless inactivity. At length the American commander learned that a detachment of British soldiers was stationed at St. Regis, seven miles distant. After due consultation among the officers, it was decided to make a night attack upon the enemy, and Lieutenant Marcy was assigned to take command of the attacking forces.

The night of the 23rd of October, 1812, was fixed upon as the time for the movement. Accordingly, on the evening of that day, Marcy, at the head of one hundred and seventy picked men, cautiously left the American camp and moved towards the foe. The moon went down before the troops began the march; the fitful blasts of an October night swept moaning and chilly across the St. Lawrence; amid darkness and silence, the men moved sternly on their perilous errand. So cautiously were they compelled to march, that it was midnight before they reached St. Regis. The enemy, unconscious of their approach, were wrapped in slumber, except the sentinels. The guard on the outposts were suddenly overpowered and disarmed by scouts, who sprang upon them ere their approach was discovered; and Marcy's troops moved so near the works of the enemy, that the tread of the sentinels on duty there, could be heard.

It had been ascertained that two sentinels guarded the main entrance to the fort; by overcoming these, the passage way would be free for the Americans to enter. Halting his men, the young officer, accompanied by three soldiers, crawled on their hands and knees towards the entrance. At length they reached

a point where a portion of the wall jutted out in a sharp angle but a few feet from the entrance; from this projection Marcy and his men sprang upon the sentries, and they were quickly disarmed. During this short struggle, a musket was discharged, which aroused the garrison, and brought the American troops to the assistance of their commander. In an instant the door was broken open, and the assailants rushed into the fort. The British received them with a scattering volley of musketry, and then prepared to defend themselves with the bayonet, swords and clubbed muskets. For a few moments the contest was fierce and desperate; but the superior numbers of the Americans prevailed, and the whole garrison were soon prisoners of war—the first prisoners captured in the war of 1812. Several Americans were wounded; three British soldiers were killed, and many others wounded in the attack.

The brilliant manner in which this expedition terminated, was regarded by the nation as a favorable omen for the Americans, while Marcy and his brave associates received the thanks of their commander and the plaudits of the people. A song, descriptive of the occasion, was composed, set to appropriate music, and sung throughout the country, inspiring the young men with military ardor.

Several stands of arms and a flag were captured. The latter was presented to Governor Tompkins, and it is still preserved as a relic of the war of 1812, and an evidence of the gallantry of him who captured it.

The taking of St. Regis brought Lieutenant Marcy to the notice of General Dearborn, who soon caused him and his command to be attached to Colonel Pike's regiment, then with the main army, which for a time, was encamped at Champlain.

In the month of November, 1812, Colonel Pike moved with his command against the works of the British on Le Colle river, but they were so strongly

garrisoned that he was disastrously repulsed, with considerable loss in killed and wounded.

During this attack, a body of hostile Indians, who occupied a position in a small ravine on the right of our troops, greatly annoyed them while moving to the attack. Colonel Pike ordered Lieutenant Marcy with his company to dislodge them. He obeyed, and in a few moments he gained a point from which he was enabled to open an enfilading fire on the savages, which he did so suddenly and effectually, that a deadly volley was poured upon them before they were aware of the approach of the Americans, sending them howling from their position, leaving many dead and wounded on the ground. But this successful movement did not save Pike's command from defeat, although his attack on the works was gallantly and vigorously made.

Young Marcy was advanced to the rank of captain. He continued in the service until the period for which he enlisted expired, when he returned home and resumed the practice of his profession. But during his absence his clients had sought other lawyers; his business was gone, and he was compelled to commence life anew; though many of his old clients returned to him, his professional progress was slow; though he was somewhat studious, he lacked that industry and energy which is so necessary for a young lawyer who is just commencing his practice; besides, he was never delighted with the details of office practice, and he did not relish the contests of the forum.

Those who knew him at this period, describe him as a person who was careless in his dress, whose boots were strangers to polish, whose hair, to say the least, never appeared in "Hyperion's curls," and who would be regarded by strangers as a dull and inactive person.

His office was directly opposite the female seminary of the late Miss Emma Willard. It was sur-

rounded by a sort of veranda, to which there was a railing. Here, in pleasant weather, the young lawyer was in the habit of sitting, with his feet on the railing, watching the gambols of the young ladies on the play-grounds, or engaged in reading. Though he was wanting in those exterior qualities which constitutes what is called a ladies' man, his society was by no means distasteful to the fair sex, especially those who had the penetration to understand his real character, and to appreciate his abilities.

Among the more advanced pupils of the seminary, was a young lady from Massachusetts, an heiress, very beautiful, and very pleasing in her manner, accomplished, intelligent and talented — one whose "happy and innocent heart sparkled in her face." For some time there had existed a respectful friendship between the lady and the young lawyer. She was pleased with the graces of his mind, the variety of his knowledge, and the superiority of his intellect. There was a charm in his conversation which unconsciously revealed the mental powers of the future statesman. There was no romance in their friendship —no affair of the heart mingled with it. Though their meetings were not frequent, and there was nothing in them to attract attention, yet a rumor at length reached Miss Willard that the lady was secretly receiving the attentions of Mr. Marcy. As such things were strictly forbidden by the rules of the institution, it became her duty to investigate the matter, which she did; but as she discovered nothing to confirm the report, the matter was dismissed from her mind, though occasionally the rumor would be repeated to her.

One day, the young lady obtained permission to visit Albany with some relations who had called upon her. Some time after her departure, it occurred to one of the pupils, who had interested herself in the affair to quite an extent, that, although the day was pleasant, the lawyer was not in his accustomed place.

She learned, on inquiry, that he had not been seen there that day. Her curiosity and suspicions being thus aroused, it caused her to make further inquiry, and she learned that he had accompanied the young lady and her friends to Albany. As such matters lose nothing by repetition, it was reported "that Mr. Marcy and the lady had eloped for the purpose of being married." The rumor ran like wildfire through the institution, and soon reached the ears of the faculty. The whole seminary was soon the scene of unusual excitement; then indeed "there was hurrying to and fro"—consternation was on every side. Cupid had found a lodgment within those walls dedicated to science alone; one of its fairest inmates had yielded to his witchery, and fled to the bowers of love.

The fugitives were immediately pursued. The lady and her friends were found at a hotel at Albany, quietly enjoying themselves; but, to the surprise of the pursuers, Marcy was not present; he had not even been seen by any of them that day.

It happened that shortly after the lady and her friends left Troy, Mr. Marcy, having business in Albany, proceeded to the city alone by stage. Having transacted his business, he returned at an early hour, to the surprise and astonishment of the citizens, who had learned of his elopement with the pretty heiress. His own astonishment was unbounded when he learned of the commotion which he had unconsciously caused in the seminary, especially when he learned that during the day, throughout the city, it was believed he had absconded, having a clandestine marriage in view; that he had abandoned the law for Gretna Green.

Nothing could exceed the chagrin of the pursuers, on learning how sadly they had been deceived; and for a long time the affair caused much merriment. None enjoyed the joke more than Mr. Marcy and his fair friend.

At length the lady graduated and returned to her

friends, retaining the highest esteem for the young lawyer, who she often predicted would make his way to fame. In the course of time, she married a highly respectable gentleman, who, while Mr. Marcy was in the Senate, was often at Washington. As the lady accompanied her husband, Mr. Marcy renewed his acquaintance with the Troy school girl of other days. She was now an elegant, accomplished, and fascinating woman, and he a senator in Congress, ranking with the great and illustrious of the nation.

"This is Hon. William L. Marcy, with whom I once eloped. I trust you will forgive him, as you have me, for it was only an indiscretion of our youth," said the lady, on the introduction of her husband to Mr. Marcy.

That elopement was the subject of much merriment in the society at Washington in those days.

The business of Mr. Marcy gradually increased until he attained a very respectable and remunerative practice. Though not a brilliant advocate, he was a strong and an effective speaker at the bar. There was a steady firmness in his arguments founded upon previous deliberations, a well poised judgment, forcible and to the point—sustained and enriched by a perfect and systematic knowledge of the law.

One of his distinguishing qualities was his power as a writer; few men wielded a more vigorous pen than he. His intellect was fertile, his reading extensive, his powers of analysis were strong, and he possessed an intellectual magazine which furnished every material for the pen of a ready writer.

A series of articles published by him over the signature of Vindex, attracted the attention and gained the admiration of the public. He strongly sustained the administration of Governor Tompkins, and the measures of the Democratic party. The intuitive force of these articles—the skill with which facts, circumstances, and arguments were marshaled in them,

caused the public to suppose that "Vindex" was some gifted and experienced statesman.

While William L. Marcy was thus sustaining Mr. Tompkins in the east, the pen of John C. Spencer was another powerful supporter of his administration in the west.

Mr. Marcy's versatile abilities as a writer—the influence of his articles with the public, created a desire on the part of his friends to promote him to some official position; accordingly, he was appointed recorder of the city of Troy.

At this period, Martin Van Buren was just entering on that splendid sphere of political action and influence through which he attained the chief magistracy of the nation. His judicious and penetrating mind early perceived that Marcy's abilities would be no ordinary support to the Democratic party, and to him, as one of its leaders; he therefore took an early opportunity of making the acquaintance of the young lawyer. This acquaintance soon ripened into an intimacy which continued through life.

With Mr. Van Buren, Marcy, in 1817, reluctantly supported De Witt Clinton for governor. He had not yet attained that caution—that wary skill—that subtle policy which constitutes the successful politician, and, dissatisfied with the administration of Governor Clinton, he openly proclaimed his sentiments and his friendship for Mr. Van Buren. This conduct, in the winter of 1818, nearly caused his removal from the office of recorder. But the threatened removal, however, did not abate his zeal for his friend, or his hostility to Clinton; the same indomitable adherence to his principles which caused his expulsion from the academy at Leicester, resulted at length in his removal from the office of recorder. This was one of the earliest cases of political proscription known in the political history of the State.

His removal from office now compelled Mr. Marcy to rely solely upon his profession for a livelihood.

But his mind was fascinated by the detail of politics, and he could not emancipate himself from the demands which his party made upon him. In 1819-20, in the endeavors of Mr. Van Buren and his compeers to remove Mr. Clinton from the Republican party, the talents of Mr. Marcy were exceedingly useful to his political friends, and he became one of the leading politicians of the State. The opponents of Mr. Clinton in the State having, in 1819, organized under the name of the Bucktail party, Mr. Marcy wrote the celebrated address of the members of that party in the Legislature. Few political documents of that character bear the indubitable evidence of ability and research of that remarkable paper. Its dignified diction, its keen, subtle criticism of Mr. Clinton's measures, its apparently disinterested surrender of all personal advantage or ambition in the proposed ostracism of Clinton and his friends, with few of those mercenary opinions which often characterize such productions, did not fail to exert a powerful influence which nothing but the high popularity of Mr. Clinton could have withstood.

This address was soon followed by a pamphlet entitled "Considerations in Favor of the Appointment of Rufus King to the Senate of the United States;" which was equally as powerful as his legislative address, though not so adroitly written.

At the extra session of the Legislature of 1820, held in November of that year, a Republican Council of Appointment was elected. One of the first acts of this body, after its organization, was the appointment of Mr. Marcy to the office of adjutant-general of the State.

The duties of this office, entirely ministerial in their character, were performed with the most scrupulous exactness and promptitude, but they gave him no opportunity to distinguish himself.

In his efforts to procure the passage of the act authorizing a Convention to revise the Constitution, the abilities of William L. Marcy again exhibited them-

selves, and his influence aided in the final passage of the act. After the adoption of the new Constitution, in the year 1823, John Savage, then comptroller of the State, was appointed chief justice of the Supreme Court. This left the office of comptroller vacant, and Mr. Marcy was brought forward, in the caucus of the Republican members of the Legislature, as a proper person to fill that vacancy. But though warmly and even bitterly opposed by Samuel Young, John Cramer and others, who preferred General Talmadge, yet, through the influence of Mr. Van Buren and Governor Yates, Mr. Marcy was nominated by a large majority. On receiving the appointment of comptroller, he removed to Albany.

"The office of comptroller, always an important one, had now become particularly so in consequence of the large expenditures on the Erie and Champlain canal, and the increase of the State debt. The business capacity of the new comptroller was put to the severest test, but so faithfully and skillfully were his duties discharged that no opposition was offered to his reappointment in the winter of 1826. He found the finances of the State in a prosperous condition, and it was no fault of his if they were less so when he surrendered the office into other hands. He introduced many improvements in collecting and disbursing the public funds, and the State is indebted to him for the present admirable system of tolls, and disbursing them."

While comptroller, Mr. Marcy became identified with the "Albany Regency," which for many years controlled the Democratic party of the State. In the exciting political events of 1824–26, he distinguished himself for his activity. In 1824 he sustained Mr. Crawford for president, and in 1826 he gave his influence in favor of Judge Rochester for governor, against De Witt Clinton.

In 1828, he was one of those who aided in the nomination and election of General Jackson to the pres-

idency of the United States, and as a consequence gave Mr. Van Buren great ascendancy in the political affairs of the State of New York.

One of the complaints made against President Jackson was, that he did not possess sufficient learning and ability to write his own messages; that the dignified and able State papers which were nominally the work of General Jackson, were really written by Mr. Van Buren; and a certain member of Congress, now no more, made the statement that he had examined the original manuscript of his first annual message, and that it was in the handwriting of Mr. Van Buren. What is still more singular, when the administration of Jackson had passed away, and Mr. Van Buren occupied the presidential chair, the serious charge was made against him that he had not ability sufficient to write his messages, and that they were written by a distinguished member of his cabinet; that some of his state documents were written by Mr. Marcy. There were few abler writers in the State than Mr. Marcy, and perhaps from this fact it was supposed that he was the author of some of those brilliant and able documents that were issued during the exciting and memorable discussion of the affairs of the United States Bank.

In December, 1828, Judge Woodworth resigned his seat upon the bench of the Supreme Court, where he had served with credit and ability since January, 1819. Judge Woodworth was a resident of Albany, and at the time of his appointment was one of the leading lawyers of the Albany bar, eminent for his learning and skill as a lawyer. Distinguished for his profundity and judicial accomplishments, he was one of those who gave to the old Supreme Court that eminence which commanded the respect of the nation. Those who knew him best were surprised that a lawyer of his commanding position did not receive the nomination for chief justice.

On the 15th of January, 1829, Mr. Marcy was

nominated by Governor Van Buren an associate justice of the Supreme Court. He was duly confirmed, and immediately entered upon the duties of his office. His appointment was exceedingly satisfactory to the bar of the State, which entertained the highest respect for his qualifications as a judicial officer. "He possessed a highly philosophic mind, united with the most ample stores of history and jurisprudence. His reflective powers predominated, and to a stranger, as well as to those who knew him intimately, he had the appearance of a man in deep thought. With inflexible honesty, he united an impartiality which rose above every influence and adjusted to all occasions. There was nothing either affected or repulsive about him; and if ever a man existed who would more than any other have scorned the pitiful fopperies which disfigure the worth of Cato, or shrunk from the harsher virtues of Brutus, it was he."

Soon after his appointment, he was directed by the governor to preside at a Special Oyer and Terminer, held at Lockport for the trial of the alleged murderers of William Morgan. Prominent among those who were charged with complicity in that mysterious affair, was Colonel Ezekiel Jewett, the commander of Fort Niagara, when Morgan was confined in it. At the period when the trial occurred Anti-Masonry had become one of the elements in the politics of the State. This, of course, rendered the position of the presiding judge one of great delicacy and difficulty. But although a politician from his childhood, and up to the period of his appointment to the high judicial position which he then occupied, ardently engaged in promoting the prosperity of one of the great parties in the State, yet few men were better qualified to hold the balance between political excitement and the inflexibility of the laws than he.

When Colonel Jewett came to the bar for trial, there was one individual who knew, or was supposed to know, the full extent of his guilt. This was Orsa-

mus Turner. He was duly subpœnaed as a witness, and amid the most profound and breathless silence he took the stand; the vast audience assembled believed the hour had come when the fate of William Morgan was to be revealed to the world, and his murderers punished by those laws which they had so fearfully outraged.

John C. Spencer, who had labored with untiring zeal—had devoted the strength of his mighty intellect to the task of unmasking this great offense—but as yet with little effect, now believed that his hour of triumph had come. With calm emphasis the witness answered the preliminary questions which were put to him. But when the inquiry touching the guilt of the accused was propounded, a paleness overspread his features, with a rigid determination his lips closed, a look of unflinching obstinacy shot from his eyes, and no further answer could be extorted from him. The silence of the witness gave a deep and painful interest to the scene—an interest which almost suspended the respiration of many in the court-room, producing those emotions which are always experienced while watching a person who is known to be in the act of bringing upon himself some fearful doom, and who is calmly and deliberately awaiting his fate.

Presently the almost smothering silence was broken by the deep voice of the judge saying, in a voice and tone which none but William L. Marcy could assume,

"Witness, are you aware of the consequences of your refusal to answer?"

"I am," was the firm reply.

"Witness, it is not only upon you but upon society, that the evil consequence will flow from your refusal; and once more the court will give you an opportunity of saving yourself from the consequences of your rash obstinacy."

The question was repeated by Mr. Spencer. The faint flush which overspread the face of Turner as the question fell upon his ears, was the only response to

the question. Another momentous silence followed. It was momentary, however, just long enough to indicate that the witness did not intend to answer.

"Sheriff," said the judge, "convey the witness to the common jail, keep him in solitary confinement until you are directed to discharge him by the court."

That officer approached with his assistants, and through the densely crowded room, Orsamus Turner was conveyed to the dungeons of Lockport jail. Long and weary was his confinement, but with that confinement his obstinacy increased, and as he never answered, the fate of Morgan was never revealed, but by uncertain rumors; and if murdered, his assassins escaped the punishment due their crime, leaving them to answer that dread Being who has said, "Thou shalt not kill."

The chief distinguishing feature in the character of Judge Marcy, was his ability as a judicial writer. The late David Woodcock, of Ithaca, a distinguished lawyer, and an eminent representative in Congress, once remarked, that "William L. Marcy's style as a legal writer is not excelled by any judge in America; that what was more commendable in him, he did not lose sight of the substance, in the style." Perhaps there may have been deeper and closer reasoners, but there have been few who threw more light upon the point they sought to illustrate—few who could render the point they sought to establish more distinct.

The language of Marcy, like that of Burke, was calculated to make men think. "Chatham could rouse the fancy of the multitude and wield their physical energy as he pleased; while Burke carried conviction into the retired and lonely student." Here, perhaps the analogy ends between Burke and Marcy, for the power "which governed the mind of the former was imagination," while Marcy was wanting in imagination and fancy. But he united

the two extremes of refinement and strength; his writings were confined to the themes of wise lawgivers, reasons of the law, and those considerations which relate to the civilian and legislator.

It was Judge Marcy's fortune to pronounce the opinion of the court in the great case of the People *v.* Mather, reported in 4 *Wend.* 229. This was another case growing out of the abduction of Morgan. Mather was tried as one of the abductors of Morgan, at the Orleans circuit, in November, 1828, before Hon. Addison Gardner. After a very protracted trial, he was pronounced not guilty by the jury, and the special public prosecutor moved for a new trial, on the grounds of the misdirection of Judge Gardner. Whether a new trial could be awarded in a criminal case for the misdirection of the court where there has been an acquittal was then unsettled; nor was it settled in that case, although the court went so far as to say that "if the power exists at all, it will not be exercised unless it is reasonable to infer that the acquittla was induced by such misdirections." Though many of the points in this case were reviewed in the learned and elaborate opinion of Judge Woodworth in the case of the People *v.* Vermilyea, yet very many new, and until then, unsettled doctrines were considered and decided by Judge Marcy in the People *v.* Mather, which renders his opinion in that case one of the ablest in our reports.

On the trial of this case, one William Daniels was asked by the public prosecutor whether, on the 13th of September, 1826, he was at the house of Solomon H. Wright, in New Fane? The witness declined to answer, on the ground that the answer might implicate him in the transaction. Mr. Spencer contended that, as the abduction took place in September, 1826, and the statute of limitations had attached, therefore, as the answer of the witness could not criminate him, he was bound to answer. The defense insisted that if the answer tended to the infamy of the witness, he

was excused from answering. Judge Gardner decided that the witness was not compelled to answer, and to this ruling of the judge an exception was taken. The Supreme Court affirmed the decision of Judge Gardner on this question, declaring, through Judge Marcy, that where the direct answer to a question will disgrace a witness and fix a stain of infamy upon his character, he is not bound to answer; that it is not enough, however, for the witness to allege that his answer will have a tendency to expose him to disgrace and infamy. The question must be such that the answer to it, which he may be required by the obligation of his oath to give, will directly show his infamy, and the court will see that such must be the case, before they will allow the excuse to prevail.

In considering the offense of accessories to a murder, before and after the fact, Judge Marcy said:

"The mysterious obscurity which hangs over the termination of this affair, justifies a well-founded suspicion that Morgan came to an untimely end."

This case also decides what constitutes the crime of conspiracy, and who may be made co-conspirators—where the venue may be laid in the case of conspiracy—what constitutes a challenge to a juror for principal cause—and what constitutes a proper challenge as to favor—and the exclusion of jurors for an expression of an opinion—when the facts on which a challenge rests are disputed, what course to be taken.

Judge Marcy's comments upon leading questions would alone repay a perusal of the case. Upon these and many other questions, the comments of the judge are eminently learned and interesting.

As has been stated, the jury found a verdict of not guilty, and the indictment and other proceedings were brought into the Supreme Court by Mr. Spencer on a motion for a new trial, for errors in the charge of the judge; but a new trial was denied, and the defendant fully acquitted.

Judge Marcy continued upon the bench until the

4th of March, 1831, when he received the nomination for United States senator in a legislative caucus held on the evening of that day. To the great regret of the bar of the State, as well as his associate judges, he decided to accept the senatorship, and, therefore, resigned the position of judge of the Supreme Court. With the opening of Congress in December, 1831, he entered the United States senate as one of its members. That his eminent abilities as a statesman were properly appreciated at Washington, is sufficiently shown by his being appointed chairman of the Judiciary Committee, a position which conferred upon him the highest honors, and, at the same time, great responsibilities.

Hardly had he taken his seat in the Senate, when Mr. Van Buren and his friends were attacked by Mr. Clay with that energy—that inimitable eloquence which always electrified those who listened to him. In the remarkable speech which he delivered on this subject, he charged Mr. Van Buren and his friends with being the first who brought party proscription into national politics. Van Buren was then minister to the court of St. James. Older and more experienced senators, whose duty it was to defend the absent minister, remained silent. William L. Marcy, however, was not the man to listen tamely to the attack on an absent friend. No matter who launched the thunderbolt, no matter how proud or lofty was the Senatorial record, nor how impressive the eloquence of him who made the attack, he boldly came to the rescue, and his maiden speech in the Senate was in answer to Henry Clay's aspersions upon Van Buren. The two speeches that he delivered on this occasion fully sustained the high reputation which had preceded him to Washington. They were distinguished for great dignity, strength and singleness. Some portions of those speeches would compare with those of Burke, Pitt and Canning.

The next effort which Mr. Marcy made on the floor

of the Senate was his celebrated answer to Mr. Webster's speech on the apportionment bill. It did much to elevate him in the estimation of his constituents, while it gained him the respect of his political opponents.

One of the questions of that day was the tariff; this claimed much of Mr. Marcy's attention, and although he has been represented as entertaining other views of it than those which would tend to the advantage of his party, yet no one can read his speeches on that question, delivered while in the Senate, without being impressed with the patriotic impulses which stimulated him.

He sustained General Jackson on the great question of the United States Bank, and voted against its re-charter. On account of his influence in New York, the veto message was strongly sustained by the people; for no man in the State, at this time, had a stronger hold on the confidenci of the people than William L. Marcy.

When General Jackson vetoed the bill providing for the improvement of harbors and rivers, known as the Mayville veto, Mr. Marcy sustained him. Among the improvements which the bill provided for, was "the removal of obstructions from the Hudson river, near Albany." This measure was strongly urged by the people of Albany, his own particular friends, and, therefore, he had a direct personal interest in the passage of the bill; but, as he believed its general features to be dangerous, he emancipated himself at once from all personal interest, and threw his influence against it—a sacrifice which at this period is never made.

In July, 1832, he accepted an invitation from the citizens of Harrisburgh to partake of a public dinner in that city. The occasion was one which will long be remembered. Public honors awaited him there, seldom tendered to any individual. In reply to a sentiment offered by a distinguished statesman of

Pennsylvania, in alluding to the brilliant reception which had awaited him, he said:

"Deeply penetrated by the flattering sentiment which you have just uttered, and impressed with the marks of public favor which I have received since my arrival in your city, still I have not the vanity to suppose that they are intended for any other purpose than testifying the respect in which your citizens hold the great State which I have the honor to represent in the Senate of the United States. Through me the great Commonwealth of Pennsylvania speaks to the Empire State. If I should fail to be proud of my position under these circumstances, I should justly be chargeable with that apathy which would render me unworthy to be the representative of that great State."

"Enos T. Throop was now governor of the State; his official term was drawing to a close, and it was well understood that he declined a renomination. Judge Marcy was therefore already nominated for governor by the spontaneous voice of the people, and his nomination by the Herkimer convention in the following September, was but a ratification of his popular nomination."

At this period, political Anti-Masonry had arisen to a power in the State, which enabled it to contend with great confidence for supremacy over the Democratic party. Its standard-bearers were Francis Granger and Samuel Stevens; the former was nominated for governor, and the latter for lieutenant-governor.

Many circumstances tended to render this canvass warm and exciting; prominent among the questions which entered into it, was that of the United States Bank. But the Democratic party were now on that tide of success which, through so many years, gave it victory; and Mr. Marcy was elected. Resigning his seat in the Senate, he entered upon the discharge of his duties as governor. "His first message, as a literary

production, called forth commendation from every quarter, as indeed, was anticipated by those who knew how powerful and practical was the pen he wielded. The financial policy of the State was, as it had been for several years, the great subject of interest, and it had a deserved prominence in the message." Liberal quotations from it were made by the press in all parts of the nation, and it commanded the respect of the statesman, the scholar, and the man of business.

The great questions of State policy that divided the public mind, and which fell within the purview of the executive, were met and disposed of with that native independence of character, that promptitude, decision, and ability which showed that he and no one else was governor.

So acceptable was his administration to the Democratic party, that he was again its nominee in the canvass of 1834. John Tracy, of Chenango, was nominated for lieutenant-governor. Few men have been more popular with their party, few have enjoyed in a larger degree, the confidence and regard of the people, than Mr. Tracy. Through a long series of years, he was honored by many exalted and responsible positions, and though a strong, uncompromising partizan, yet he passed through party collisions with such singular moderation, such unwavering devotion to rectitude of purpose, that he gained the esteem of political opponents as well as political friends.

Anti-Masonry had now become a thing of the past; it had subserved its purpose; it had brought forward names that were to live forever on the historic page; and it was now merged in the Whig party—a party which, whatever were its perfections or imperfections, formed for itself a record bright with the names of illustrious statesmen, who, in sustaining it, enriched the annals of the nation with the loftiest patriotism—with all that is attractive in learning and all that is brilliant in eloquence and oratory.

Mr. Seward received the nomination for governor,

and Silas M. Stillwell for lieutenant-governor, from the Whigs of New York, and they became the opposing candidates to Messrs. Marcy and Tracy. The latter were again elected.

The governor's next message to the Legislature was characterized by the strong and urgent manner in which it recommended the enlargement of the Erie canal, which it denominated the backbone of the canal system of the State. He insisted that the enlargement should be carried on with sufficient rapidity to exhaust the surplus revenues arising from the canal tolls. The Legislature, coinciding with these views, passed an act in conformity to them. The banking interest, which had now become a delicate and important question, fraught with many difficulties, received the attention of the governor in this message. He discussed the great question of the finances with the force, clearness and ability of a Huskisson. The State of New York—the Union itself—has furnished few if any men who understood and comprehended the financial questions of their day as thoroughly as did William L. Marcy and Silas Wright. Neither of them were distinguished for grace of oratory, though it cannot be said that they were not consummate debaters; and the latter, although he generally confined his remarks to the questions of commerce and finance, always gained the attention of the Senate.

In the month of September, 1834, George Thompson, a distinguished abolition lecturer, landed in the city of New York from England. His mission was to aid in the establishment of those abolition societies which began to exhibit themselves during Mr. Marcy's second administration. The riots and disturbances which succeeded their establishment mark an unusual era in the history of New York city. Thirty-two years passed away, and the principles which were contended for in those societies, and which then doomed all their members to the lawless vengeance of a mob, came to such importance that they rocked

the nation from center to circumference, and amid fearful convulsions the institution of slavery fell to rise no more.

On the 4th of September, 1834, Mr. Marcy presided at an immense meeting, held at Albany, "attended by the most venerable and distinguished men of both political parties," at which resolutions were adopted, declaring that the movements of the abolitionists were incendiary and threatened to disturb the public peace, and therefore ought to be frowned upon by all sincere friends of the Union. What a change from 1834 to 1865!

The speculating mania, which for several years had been increasing with unprecedented rapidity, had now reached its culminating point. Embarrassing as it was to his party, and to his administration, he grappled with all the questions growing out of the troubles, and led his party triumphantly through all difficulties, though his course lay between Scylla and Charybdis; and his second administration closed in a blaze of popularity, which led to his third nomination in 1836, without a dissenting voice. Mr. Tracy again received the nomination for lieutenant-governor. The late Jesse Buell and Gamaliel H. Barstow were the opposing candidates. The star of the Democratic party was still in the ascendant. Marcy and Tracy were again elected by an increased majority. This year, Martin Van Buren was elected president of the United States, and thus the early friends were now one of them the chief magistrate of the State, the other the chief magistrate of the United States.

With the administration of Mr. Van Buren, dark and threatening clouds began to lower around the Democratic party. The independent treasury question, which brought calamity upon that administration, was shared by Mr. Marcy's, and his third official term closed amid an impending storm. But such was the unfaltering trust which the Democracy reposed in

him that, in 1838, he was again put in nomination for governor.

The Whigs this year nominated Mr. Seward for governor, and Luther Bradish for lieutenant-governor. Again he was compelled to confront the coming man of the State, and he was doomed to defeat. Mr. Seward and Bradish were elected by over ten thousand majority, and from that era the star of the former was in the ascendant. Gradually it led him from one degree of greatness to another, until, as the premier in the cabinet of Lincoln, during a civil war of unparalleled magnitude, he became known to the world as the most accomplished diplomatist of the age.

With the expiration of his term of office Governor Marcy retired to private life. He had filled the executive chair of the State, six years in succession, with such distinguished ability, that he carried into retirement the respect of all parties. But his retirement was of short duration. Martin Van Buren could not be forgetful of one who had so powerfully aided in his advancement to a position which was hereafter to render his name memorable in history, and he appointed him one of the commissioners to decide upon the claims against the government of Mexico under the Convention of 1839. This was a highly responsible position, compelling Mr. Marcy to reside at Washington until his powers as commissioner expired, which event occurred in 1842. From that period his residence was at Albany until the day of his death.

In September, 1843, he presided at the Democratic State Convention, held at Syracuse, for the purpose of choosing delegates to the National Convention, then soon to be held. His first choice for president was, of course, Martin Van Buren; but he gave a warm adherence to Mr. Polk, and used his influence in causing the State of New York to cast its vote for him.

At the State convention, called for nominating a

State ticket, he strongly urged the name of Silas Wright for governor.

The election of 1844 terminated so disastrously to the Whig party, that many believed it would never again assemble its scattered hosts. James K. Polk, the president elect, some time previous to his assuming the presidential chair, signified his appreciation of Mr. Marcy's abilities by tendering him the position of secretary of war in his cabinet. He accepted the offer, and entered upon the discharge of the duties of his new position.

As has been well said, "a cabinet appointment is not often a position calculated to add to the reputation of an individual who holds it, as its honors and responsibilities are shared among a number, or monopolized by the head of the administration."

This may be so in times of profound peace, or where the cabinet officers possesses no more than medium abilities. But in turbulent times—in times when the energies and abilities are taxed to the uttermost, then the head of a responsible department, if he has the ability, must distinguish himself.

This was the case with Mr. Marcy as secretary of war. The Mexican war demanded a man of practical ability and sagacity, a statesman of experience and energy. Mr. Polk found in Governor Marcy all these requisites—found in him qualities which gave success to our arms and shed a luster on the administration. The dispatches, orders, and instructions of which he was the author during that war, afford the most indubitable evidence of his accomplishments as a minister of state.

While secretary of war, he became involved in a controversy with Generals Scott and Taylor. These illustrious chieftains conceived the idea, that as they were opposed to him in politics, he naturally regarded the brilliant fame which they were gaining, with jealousy, fearing that it would lead to the advancement of the rival party; and they publicly

charged Mr. Marcy with using his official powers to embarrass and retard their military operations. So openly and persistently were these charges made, that he found it necessary to defend himself against them, and he replied with that dignity, force, and reason, which silenced all censure, and relieved him from the serious charges brought against him.

With the close of Mr. Polk's administration, he retired again to private life, where he remained through Mr. Fillmore's administration. The election of 1852 resulted in the triumph of the Democratic party, and the election of Franklin Pierce, president of the United States. This result again summoned William L. Marcy from his retreat, and he became premier of the new administration. With abilities enlarged and strengthened by varied and extensive experience as a statesman, he took his place at the head of Mr. Pierce's cabinet. Here he exercised all the powerful energies of his character, his profound knowledge of all diplomatic relations, and he became the rock of the new administration.

During the administration of Mr. Pierce, an event occurred which greatly distinguished Mr. Marcy as a diplomatist at home and abroad.

"On the 22nd day of June, 1853, Captain N. D. Ingraham, in command of the United States sloop of war St. Louis, arrived at Smyrna, and while at anchor he was informed by the American consul that Martin Kosta, a Hungarian by birth, but entitled to the protection of the United States, was a prisoner on board the Austrian brig of war Hussar, then lying near the St. Louis. Captain Ingraham immediately went on board the Hussar, had an interview with Kosta, and learned that he had resided a year and eleven months in New York, where he took the usual oath of allegiance to the United States, in July, 1852, and was in possession of a legalized copy of a declaration which he made of becoming an American citizen ; he had come to Smyrna on business, intending to return ;

that on the 21st of June, while seated on the Marina, he was seized by a party of armed Greeks, employed by the Austrian consul general, thrust into a boat, and carried on board the Hussar, where he was held in close confinement. Captain Ingraham immediately addressed a note on the subject to Mr. Brown, charge d'affaires of the United States, at Constantinople, who officially expressed the opinion that the discharge of Kosta should be demanded.

"Captain Ingraham accordingly, on the 2nd day of July, at eight o'clock, A. M., demanded of the Austrian commander, the release of Kosta by four o'clock P. M., declaring that he would otherwise take him by force. At this time a steamer was lying near the Hussar, ready to convey the prisoner to Trieste. At eleven o'clock, the Austrian consul general proposed, under protest, to deliver Kosta to the French consul, subject to the disposition of the consuls of the United States and Austria, and not to be delivered without their joint order; in the agreement drawn up, the ministers of the United States and Austria, the consuls of the two powers, were to give the assent to the delivery of Kosta. As this proposition was a sufficient assurance of the personal safety of Kosta, Captain Ingraham accepted it, and the Hungarian was soon set at liberty and returned to the United States."

This affair caused great sensation in Europe and in America. The Austrian government deemed it a high-handed and unwarranted act on the part of Captain Ingraham, and a correspondence on the subject ensued between Mr. Hulsmann, charge d'affaires of Austria, and Mr. Marcy, in which the matter was elab orately discussed. This correspondence was eagerly read throughout the civilized world. The questions involved were in a measure new, and more or less affected all governments who recognized the laws of nations. It proved Mr. Marcy an accomplished statesman and diplomatic correspondent.

The conduct of Captain Ingraham was fully sustained and approved by the United States government, and in August, 1854, Congress voted him a gold medal.

In March, 1857, at the close of Mr. Pierce's administration, Mr. Marcy again retired to private life, never again to be oppressed with the cares of state or burdened with official duties. He now entered upon a life congenial to his taste and his age, and for which he had long been anxious to resign the cares of office, and all that worldly ambition can give. With books —with his chosen companions, in the pleasures of intellectual conversation, his days passed pleasantly by. Mr. Marcy was a lover of the great poets of England. Among these his particular favorites were Thomson, Cowper and Gray. His imagination was captivated by the former. His heart inclined him to the kind and benevolent emotions which flow so copiously from the poems of Cowper; the touching tenderness and beautiful sentiment of Gray were always pleasing to him; and his splendid, truthful and lively Elegy was a lifelong companion for him. These authors relieved and refreshed his mind amid the cares of state. They rendered his retirement bright and flowery, shedding upon it the "ethereal mildness" which caused his days to pass in tranquillity and peace.

On the 4th of August, 1857, Mr. Marcy retired to his library as usual. An hour and a half passed away, when a friend called to see him. He was directed to the library, where, as a sort of privileged person, this friend often conversed with the statesman. He knocked at the door. Receiving no answer, he presumed upon his privilege and entered. Mr. Marcy lay apparently asleep upon a sofa, with a book open and turned down upon his breast. His features were calm and peaceful; but a second look revealed something unnatural in the general appearance of the face. He approached nearer, laid his hand upon his forehead, and he felt the cold, clammy presence of death.

The form—all that was left of William L. Marcy—was before him, but the spirit had fled.

There, in the silence of his study, without a struggle, he calmly left the world. On removing the book from his breast, it proved to be his favorite poem, the Elegy of Gray—that poem, which, in departed years, had been his solace and delight, was the last object on which his eyes rested ere they closed forever. Thus, four months to a day, from the time he retired from the cares of state, he died.

All who knew him concur in one uniform testimony to the purity of his morals, the sobriety and temperance of his habits, and the generous warmth and tenderness of his affections. With no habits of luxurious expense or ostentation, and addicted neither to the pleasures of the table or fashionable amusement, his home was the scene of happiness, often interrupted by his various offices, yet still he had a home wherever he was, for he was admirably fitted for domestic life.

"Governor Marcy was twice married. His first wife was Miss Newell, a descendant of one of the early settlers of Sturbridge; his second wife was a daughter of the late Benjamin Knower, formerly treasurer of the State; and for a long time one of the most active and influential politicians belonging to the Democratic party in the city of Albany.

"As a private citizen, Mr. Marcy was always held in high esteem for his good example in the fulfillment of social and religious duties. The Albany Academy, and the Albany Female Seminary, were much indebted to him for assistance as a patron, or counsel and advice as a trustee.

"In person, he was about the ordinary hight; his frame was stout and muscular, but not gross; his forehead bold and full; his eyebrows heavy, his eyes deep set and expressive; his mouth and chin firmly molded; his manners were affable and courteous; free from pretense, yet dignified."

Through his whole life, he regarded the Christian religion with veneration and respect — a respect founded on an earnest conviction of the truth of the evidence and doctrines of Christianity, resulting from the frequent perusal of the scriptures.