

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.

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HENRY K. SMITH.

General Characteristics.—Born on the Island of Santa Cruz.—Rank of his Father.—Painful Accident to Him.—His Mother, Her High Intellectual Qualities.—Her Influence over Henry.—He Leaves Home.—His Father's Advice.—Laconic Reply.—Placed under the Care of Dr. Berry, at Baltimore.—Progress in his Studies.—His Mental Powers.—Engages as a Clerk in a Dry Goods House in the City of New York.—Singular Circumstance which caused him to Leave his Employers.—Listens to a Trial in which Daniel Cady and Ogden Hoffman are Opposed.—Decides to be a Lawyer.—Seeks Mr. Cady, at Johnstown.—Character of Mr. Cady.—Smith Enters his Office.—Marcus T. Reynolds.—The Debating Club.—Smith Admitted to Practice.—A Delegate to the Young Men's Democratic Convention.—Makes the Acquaintance of Silas Wright in a Singular Manner.—Smith's Speech in the Convention.—Meets with Israel T. Hatch, who Invites him to Buffalo.—Invitation Accepted.—Commences his Practice in that City.—His Success.—His Partnership.—His Capacity as a Lawyer.—Incident in a Trial.—Appointed District-Attorney.—Recorder of Buffalo.—Mayor.—Incident While Mayor.—Smith as a Politician.—His First Marriage.—Loses his Wife.—Second Marriage.—Loses his Second Wife.—Effect on his Mind.—Sickness.—Death.

THE life of Henry K. Smith demonstrates the truth of the old poet's creed, that the mind of man is his true kingdom, in which he can adopt the imperious language of Louis XVI., "the state is myself." As a lawyer, he was imbued with the spirit of legal science, instinctively perceiving and observing all its limitations, its harmonies, its modulations, and discords, just as a cultivated musician can perceive, without an effort, what is congruous or incongruous in the harmony of sound. He possessed much ability for legal disquisition and polemics. His legal speeches and arguments manifest the distinction between a lawyer possessing a philosophic mind, enlarged by extensive reading, disciplined by thought and reflection, and the mere legal martinet—the case lawyer or empiric, who uses legal precedent as the mason does a brick or stone, the carpenter a stick of timber, without under-

standing the philosophy, the logic, or lesson by which it was established.

As an orator, in the popular assembly, he was dignified, easy, natural. As a politician, he was keen and discriminating, a close observer of men. In conducting party measures, he moved with facility and success, perfectly understanding how to catch "the tunes of the times." There was nothing of the trimmer about him, for he was ever bold, and spoke "straight out," a Democrat, never furling the banner of his party for the sake of policy, but always carrying it aloft, or like Bruce at Bannockburn, planting its standard in the hard rock. He wielded a strong and polished pen, which was the true emblem of his mind. Either in speaking or writing, there was a beautiful concord between his thoughts and his language. He read with perfect selection, not with the voracity of an intellectual dyspeptic. He thought with accuracy and consistency. He had a fine imagination, which made him a poet, so far as to enable him to appreciate what is most excellent in poetry. His profundity and metaphysical acuteness, his delicacy of taste, caused him to turn away from much which passes under the name of poetry. Not that he wrote poetry, for he did not. Yet in his hours of relaxation from professional labor, he read the productions of those great poets which bear the impress and the seal of genius, learning, and taste; for one of the tests of genius is, that it calls forth power in the minds of others. He believed that the fictions of a great intellect "are often the vehicles of the sublimest verities," that its flashes often open new regions of thought, and throw new light on the mysteries of our being, "that often when the letter is falsehood, the spirit is the profoundest wisdom." There are those who believe, or affect to believe, that a lawyer, to be successful, must be as emotionless as stone, as imperturbable as Diogenes. At an early period in the career of Edmund Burke, it was said of him that his writings and his

speeches, while they evinced much imagination, even poetic inspiration, they exhibited little of the stern, cold logic of the law. Time, however, demonstrated the fact, that with his poetic taste and imagination, he united the highest legal abilities. The schoolmaster who taught his pupils that laughter, under any circumstances, indicated a weak intellect, maintained a theory equally as plausible as those who ignore imagination or poetic taste in the legal profession.

Henry Kendall Smith was born on the island of Santa Cruz, April 2nd, 1811. His parents were Jeremiah Smith and Jane Cooper. They were of English origin. At the time of Henry's birth, the island was in the possession of the English, but in the year 1815 it was restored to the Danes, its original possessors. Mr. Smith was an architect and builder. Eminent and distinguished in his calling, he derived a large income from it. He was a man of energy, ability and perseverance. During the occupation of the island by the English, his pecuniary affairs were greatly enhanced, but the change of government resulted disastrously to him, reducing him nearly to poverty. Yet such was his social standing and respectability, that he was promoted to the rank of major in the Danish provincial army, a position which offered him a small income.

One day, however, while passing through a corridor leading to some casemates in a fort, a quantity of quicklime was, by some accident, thrown into his face. The effect was terrible. In dreadful agony he was conveyed to his room, where he suffered for many weeks. At length his confinement ended; but he was blind for life. At this time his family consisted of two sons and two daughters. One of the sons is the subject of this sketch.

Mrs. Smith, the mother of Henry, was a woman of uncommon endowment in person and mind. She was one of those who are not easily discouraged by mis-

fortune—one of those who ever look on the bright side of life, and fight its battles bravely. Like the mother of the great Corsican, she directed the attention of her children to the future. She held up before them the great, the gifted and the good, as models for them to follow: All sentiments of honor, of courage, of large-heartedness, of generosity, of kindness, she nursed and cherished in the hearts of her children. She taught them that success is conquest, and that no man holds it so fast as he who wins it by conflict. In short, she was one of those women who rule society by that invisible but mighty power, that tenderness, that potency of persuasion, which molds, guides and controls the intellect of her children. What princess, what sovereign can do more than this? Nay, where is the ruler that can do as much? It has been truthfully said, “that great men are ever much more the sons of their mothers than of their fathers, while seldom have great men seen their own greatness survive in their sons.” Henry was, indeed, the son of his talented and noble mother. Many years after her death he beautifully said of her, “that the great rules of the gospel were so settled in her mind that she scarcely deliberated between degrees of virtue.” Hence, the early home influences which surrounded Mr. Smith were of the purest and most elevated character.

With the first development of his nature he indicated a love of study, and at an early age he was placed in school, where he remained until he was eight years of age, when he was sent to Baltimore, and placed under the tuition of Rev. Dr. Berry, a distinguished minister of the Church of England, an accomplished and elegant scholar. At this time the elder Smith held heavy claims against the Danish government, incurred by its action in taking possession of Santa Cruz. But such was his anxiety to aid in the education of Henry, that he settled the whole in consideration of receiving at once, the small sum of fifteen hundred dollars.

In this settlement, he gave the following receipt: "I accept the sum of fifteen hundred dollars, in discharge of my claim against the Danish government, for the sole purpose of educating my son Henry, because I cannot delay until all that is justly my due can be collected by law."

As the boy was leaving home, his father said to him, "Henry, young as you are, you must know that you have now mainly to take care of yourself. According to your conduct, you will either sink or swim."

"I'll swim, father," was the laconic and earnest reply of the boy.

Actuated and inspired with this idea, he left the home of his father forever.

Guided by his accomplished and amiable preceptor, he made rapid progress in his studies, and perfected himself in the natural sciences, in the ancient and English classics, developing those intellectual powers which distinguished him in after life. The bright mind, the studious habits, and genial nature of the young man, soon won the confidence and warm esteem of Dr. Berry, and he labored to advance his pupil with unremitting zeal. He even aided him in his pecuniary matters. The young student's culture, both æsthetic and scientific, was in harmony with his fine physical and mental organization.

After attaining his thirteenth year, he received the rite of confirmation in the Church of England; and though but a boy of tender years, yet he formed his views of Christianity with caution, without asperity, and uninfected by bigotry. Through life he loved and revered the lofty ethics, the sublime teachings, the beautiful and consoling precepts of the Bible; and in the deep earnestness of his nature, he ever believed that "prayer ardent opens Heaven." Amid the most engrossing scenes of his life, such prayers touched the fountain of his feelings, and wherever he listened to them, whether in the great congregation, in

the domestic circle, or in the lowly cabin, he was impelled to say, "How dreadful is this place! this is none but the house of God." If, like Coleridge, he sometimes had thoughts and feelings better than his life, let those who are without faults cast a shadow upon his memory.

Though the mental powers and habits of research which young Smith exhibited, well fitted him for one of the learned professions, yet such were his circumstances, that he could not control the means for procuring a profession, and at the age of seventeen, he was placed as clerk in a wholesale dry goods store in the City of New York. Here he applied himself with great diligence to his new occupation, although the Promethean spark within rendered him conscious that he was designed for some other occupation. When the duties of the day were over, instead of plunging into amusement and recreation, he would retire to his room and study the speeches of Burke, Erskine, Phillips, Hamilton, Webster, and other great masters of eloquence. Here, too, he continued to pursue his classical studies, determined, whenever an opportunity occurred, to change his occupation. He waited for some time in vain, but at length an occurrence took place which changed the whole current of his life.

One morning while engaged in boxing some goods, his employer, who was standing by, sharply reprimanded him for his manner of procedure :

"You act like a woman, or worse, like a clumsy boor," said the merchant.

Just at that moment Smith, who was driving a nail into the box, struck his thumb. Instantly throwing down the hammer, he turned fiercely to the merchant and said :

"Box the goods yourself ; pound your own thumbs, for that is all God ever intended you to do. He has got something else for me to attend to."

Putting on his hat, he left the store and the aston-

ished merchant forever. Some time previous to this event, he had been introduced to the late Daniel Cady, of Johnstown, New York, who was engaged in an important trial in the city. He had listened to that distinguished advocate's address to the jury with the keenest delight; he saw the judges, the jury, and the spectators listen with equal attention to his powerful argument. He heard the reply of Ogden Hoffman, which was replete with that logic and eloquence which rendered him peerless among the gifted lawyers of his day; and from that time Smith was inspired with a love for the legal profession, which continued until the close of his life. From that day he determined to become a lawyer.

Immediately after leaving his employer in New York, with the small sum of money which constituted his whole fortune, he hastened to Johnstown, found Mr. Cady, and in a few words related to him the history of his life, explained his present situation, and asked permission to enter his office as a law student. Mr. Cady remembered the bright, intelligent young man whom he had examined as a witness in New York, was pleased with his manners, and self-reliance, and welcomed him to his office, promising him his assistance and influence in obtaining his profession. This renowned lawyer and distinguished jurist did not live for himself alone; his life, whether as the private citizen, the lawyer, or the judge, was a model. Those feelings of unkindness which sometimes obscure and sully the goodness of excellent men, seldom or never passed over him. In his profession, amidst the collisions of rivals, his ambition was so controlled by his generosity and uprightness, that he was never known to tarnish with envious breath the honest fame of another, or withhold a ready testimony to another's worth. His life was more than a model; it was a rich heritage to the American bar.

Soon after Mr. Smith commenced his legal studies, one of those common institutions, which have devel-

oped the genius of many a statesman, given to the bar and the pulpit many an ornament—a debating club, was formed in the village. Here his talents soon began to exhibit themselves, and his eloquence drew large crowds to the club room. Marcus T. Reynolds was at this time practicing his profession at Johnstown, and was a rival of Mr. Cady at the bar. That profound and gifted lawyer, early discovered in the young student, a mind of no common order, and though connected with a rival office, he sought his acquaintance and became his friend for life.

It is too often the case with young men, conscious of possessing fine intellectual powers, that they depend too much upon their natural endowments, and thus neglect that severe mental discipline, that thorough and patient investigation, without which, especially in the legal profession, distinction is seldom attained.

Few persons leap, Pallas-like, into full professional honors and success, though in this, as in all other professions, “impudence sometimes attains to a pitch of sublimity,” and at that point it has produced many distinguished advocates, that is to say, advocates who make more noise in the court room, overhaul a more ponderous pile of books than he who has wasted the midnight oil in learning their contents. Such men scramble up the delicately graduated professional ladder, at a bound. In politics, they ascend, if possible, still more rapidly; there, they learn a profession, not exactly mentioned in the books, only by way of wholesome penalties, for being too close practitioners in their arts.

Mr. Smith was untiring in his devotions to his books, and his memory took the impression of what he read, like softened steel; it hardened when the page was closed, so that he never lost the thought or theme of the author.

He continued his studies with Mr. Cady until

he was ready for his examination, gaining means to defray his expenses by teaching school.

He was admitted to the bar in May, 1832, and commenced practice at Johnstown. In the following October, the Young Men's State Democratic Convention met at Utica, and Mr. Smith was one of the delegates from the County of Montgomery. Here he was first known in the politics of the State. A gentleman of distinguished position, who was present, relates that during the session of this convention, while a resolution of much importance was pending, a young man unknown to most of the members, several times attempted to obtain the floor, but without success—older and better known members always gained precedence with the chairman. Determined to be heard, he made another effort, and again failed.

At length Silas Wright, who was a member of the convention, and who sat behind the young man, arose, and, in a stentorian voice, exclaimed:

“Mr. Chairman! Mr. Chairman!”

The gentleman was recognized by that officer with the usual sign.

“I desire, Mr. Chairman,” said Mr. Wright, “that you will listen to the young gentleman directly in front of me, whose name I have not the pleasure of knowing. I wish to hear him, sir, and I believe this convention does.”

The chairman bowed in assent; and Mr. Smith, for he it was, courteously thanked Mr. Wright for his assistance, and then proceeded to deliver a speech which took the convention entirely by surprise, and gave him at once the reputation of an accomplished and logical speaker. It combined the daring in imagination, metaphysical in reasoning, and the inventive in theory.

The question before the convention was upon the choice of a proper candidate for governor. The name of James Kent having been introduced against

William L. Marcy, Mr. Smith favored the nomination of the latter.

“Mr. Speaker,” said he, in the course of his remarks, “we are here as the representatives of the Democratic party of the great State of New York, whose history is coeval with the corner-stone of the nation, and whose destiny, no matter what vicissitudes await it in the future, is to stand with that corner-stone as long as a relic of it shall survive the lapse of time. I cannot, therefore, consent to name as the standard-bearer of that party, one who has rejected its great principles. Sir, I respect the gentleman whose name has been introduced in opposition to Mr. Marcy, as a man and a lawyer. I respect him for his purity, honor, and incorruptible integrity as a judge, and I will cheerfully award him all the honors, except this one. I am not willing, sir, to build him here a tabernacle to his political faith, though he comes in the transfiguration of the old apostles of the Democracy. I cannot forget, sir, his long and uncompromising devotion to the Federal party. Do gentlemen say that he has recanted his Federal faith? Sir, his party has wasted away before the breath of Democracy, its idols and its altars are broken, and where its incense was once burnt, the fires of other offerings glow. If he comes in the name of Democracy let us receive him, but let us reserve for the true and tried of our party—those who have never worshiped at the shrine of strange gods—the honors and distinctions of which they are alone worthy. I hesitate not, sir, to say that such is William L. Marcy.”

This speech was received by the convention with the warmest applause. Mr. Marcy received the nomination for governor, and was elected, and ever held Mr. Smith in high esteem. Martin Van Buren, who was in the convention, and also Mr. Wright, both sought an introduction to him. The latter complimented him in a speech which he made in that body.

From that time Henry K. Smith continued one of the leaders of the Democracy in the State of New York until his death.

At that convention, he made the acquaintance of Hon. Israel T. Hatch, a member from Buffalo, upon whose invitation he made that city his home. He removed there in the spring of 1837. Immediately forming a copartnership with Mr. Hatch, who was then surrogate of the county, and a lawyer of great respectability, he at once commenced successfully the practice of law in his new home. He continued with Mr. Hatch until the autumn of 1838, when his business relations with that gentleman ceased.

After practicing alone for a short time, he was offered a copartnership with Hon. George W. Clinton, which he accepted. This period will be remembered in the history of Buffalo, by the formation there of several law firms, among which were Fillmore, Hall & Haven; Barker, Hawley & Sill; Potter, Babcock & Spaulding; Rogers & Flint; Warren, Allen & Allen. Amid this array of legal talent, Mr. Smith entered the arena of political strife. But he possessed a mind, which under strong and generous emotions, stimulated by collision with gifted antagonists, acquired new command of its resources, new energy of thought and new vigor of intellect. Aply sustained by a partner whose powers of mind, and legal ability, had already given him an eminent position in his profession, the firm of Clinton & Smith was second to none in the city.

After continuing in this relation some time, Mr. Clinton was appointed collector of customs, and the firm was dissolved. After this dissolution, Mr. Smith practiced with Mr. Williams for a time. That firm being dissolved, he accepted a partnership with General Isaac Verplanck, which continued for years under the most prosperous circumstances. At length it was dissolved, and Mr. Smith formed another business con-

nection with R. U. Stevens, Esq., which continued until the death of the former.

During all these changes in business, Mr. Smith's reputation as a lawyer gradually increased, until he stood in the front rank of his profession. As an advocate, he had few equals at the Buffalo bar, or in western New York. He was engaged as the counsel for one or the other of the contending parties, in most of the important trials which occurred in the city and vicinity in those days, many of which are now recorded as precedents in the reports of the Supreme Court, Court for the Correction of Errors, and the Court of Appeals. In all of these tribunals, Mr. Smith frequently appeared. His arguments on these occasions were regarded as able and searching forensic efforts. "They sent forth no scattered rays to dazzle with their brilliancy, but poured a steady stream of light, concentrated upon the point they would illumine."

And it was on these occasions, when "the matter matched his mind," where his highest powers were fully put in requisition, that he justified the public in the rank it assigned him at the bar. One of the strong points of Mr. Smith's professional acquirements, was his successful manner in conducting a cross-examination: in this branch of practice he exhibited a sagacity, a power of reading the thoughts of the witness, of anticipating his answers, of ascertaining his peculiarities, his prejudices, his subterfuges, and, finally, of drawing forth "unwilling facts."

On one occasion, in the defense of a woman for murder, he interposed the plea of insanity. Entertaining no doubt that this was the true condition of the woman when she committed the dreadful crime, he threw his whole soul into the defense. Having, as he believed, established her insanity, he rested his case. The prosecution, determined on a conviction, introduced witnesses to establish her sanity, among whom was a certain village doctor not overstocked with learning, but making up in assurance what he lacked in acquire-

ments. This person testified, with considerable vain glory, that he had practiced medicine for a long time, during which he had successfully treated many cases of insanity; that he was familiar with the disease; that he had carefully examined the prisoner; that he had no doubt but that she was perfectly sane when the deed was committed.

“In fact,” said he, “the whole diagnosis of her case convinced me that there was about her no cerebral disorganization; that she was only wicked, perverse, and awfully malicious.”

With this flourish, he was about leaving the stand, thinking his task was done.

“Stay a moment, Doctor,” said Mr. Smith. “Let me ask you a few questions.”

With a look that plainly said, “Go ahead, sir, you can make nothing out of me,” the doctor took his place upon the stand again.

“How old are you, Doctor?” asked Mr. Smith.

“I am forty-five, sir.”

“How long have you practiced medicine!”

“About eighteen years.”

“During that time how many cases of insanity have you treated?”

“Oh, I don’t know; a great many.”

“Well, have you treated a hundred!”

“I guess not; but if you will let me send for my books, I can tell.”

“Never mind your books. Make an estimate of the number?”

“Well, then, say about forty.”

“Very well, doctor, what is insanity?”

“It is a disarrangement of the faculties.”

“Did you ever have any difficulty in ascertaining a case of insanity?”

“Not in the least.”

“What are the symptoms of insanity?”

“The patient’s actions, principally.”

“What are some of those actions?”

“Why, he always shows a propensity to do wrong ; to do what he ought not to do.”

“Doctor, what is sin?”

“Sin—sin—why sin is a propensity to do wrong.”

“Now, when a man does wrong, tell me how you ascertain whether the act is the result of sin or insanity?”

The answer to this question required more knowledge of pathology and theology than the doctor possessed. After making several attempts to answer, he declared he could not, and was permitted to leave the stand.

In the year 1838, Mr. Smith was appointed district-Attorney of Erie County. This appointment was tendered to him as a compliment to the lawyer. It was then, as it still is, an office requiring the exercise of much legal ability and learning. After discharging its duties with much credit, for seven months, he was compelled to resign, in consequence of the large amount of civil business which had accumulated on his hands.

In the year 1844, he accepted the office of recorder of Buffalo ; in the discharge of the duties of which he evinced much judicial ability, a fearless integrity, and a modest independence. He saw nothing, knew nothing, cared for nothing, except the evidence and the law in a case. On the bench he presided with ease, dignity, and courtesy. With these qualifications, it was impossible that he should be otherwise than popular. He occupied this position for several years, and was at length succeeded by Judge Masten.

In the year 1850, he was elected mayor of Buffalo. During his mayoralty the governor-general and parliament of Canada, while on a tour of inspection of the public works, proposed to visit Buffalo. Accordingly, notice to that effect was sent to Mayor Smith, announcing the time when they would reach the city. But owing to some unforeseen event, the distinguished visitors were delayed until long after the appointed

time. The military and civic societies, which had turned out to receive the guests, in obedience to the order of the mayor, had been dismissed, when notice was received of their approach. With commendable activity he prepared for them such a reception as circumstances would permit. In a brief, dignified, and statesmanlike manner, he welcomed the parliament and its officers to the city.

The liberal, high-toned, and philosophic views of international policy which this speech contained, spoke highly for the abilities of Mr. Smith. It was received with much gratification by the Canadian parliament, and by the public generally. So gratifying was it to the visitors that copies were sent to the home government, with the whole proceedings, by Lord Elgin; and in due time, Earl Gray, then minister of foreign affairs, acknowledged the receipt of it to our secretary of state.

It would be strange if a man with the abilities, and in the situation of Mr. Smith, should not have been attracted by the allurements of politics. In many respects, he was singularly qualified for a political leader and statesman. Had he lived where his qualifications could have had a proper sphere of action, his name would have been written with the most distinguished statesmen of his time, for, after all, circumstances make the man. There are many, whose names are now high on the scroll of fame, who never would have been lifted from obscurity but for the recent rebellion. By his talents alone, Mr. Smith, as we have seen, at an early age, became a leader in a great and powerful party. That he had abilities for a far higher position than he ever attained, none will deny.

The doctrines and political philosophy of Jefferson were deeply impressed in his nature, and he clung to them with obstinate fealty. He belonged to that school of politicians, now almost traditional, about which lingers the charm of political honesty. Mr. Smith was repeatedly placed in nomination for the

Assembly, several times for State Senator, and twice for representative in Congress. But during these periods, his party in the district, was in a hopeless minority, and his defeat was a matter of course. Yet his name always gave strength to the party; and, as was once remarked by an opposing candidate, "The name of Henry K. Smith always raises voters from the vasty deep." No higher compliment than this could be given by a political antagonist.

In the year 1840 he was a delegate to the national convention which nominated Mr. Van Buren for president. His speech, made on the question of representation in this convention, was listened to with profound attention.

In the year 1848, he again represented his district in the national convention at Baltimore, which nominated Mr. Cass for president. In this convention the State of New York was represented by two sets of delegates. After the admission of both delegations, Mr. Smith delivered a speech on the manner of counting the votes of these delegations. It was a masterly and patriotic effort. Portions of it were inspired by prophetic truth. He was appointed postmaster of Buffalo in 1846, and held the office two years and a half.

In the spring of 1834, Mr. Smith was married to Miss Voorhies, the accomplished daughter of a wealthy merchant of Johnstown. This union, which was the result of mutual and deep affection, and which promised much happiness, was terminated by the death of Mrs. Smith, which occurred shortly after her marriage.

In the year 1848, he was united to Miss Thompson, daughter of Sheldon Thompson, Esq, of Buffalo. This lady, to much personal attractions, added many intellectual and shining qualities, with the possession of that prudence and polish which rendered her a proper companion for a man like Henry K. Smith.

But death again entered his household and removed her who was its life and light, the hope of his coming years. This estimable lady survived her marriage but eighteen months, leaving a son, Sheldon Thompson Smith. Her loss was a source of deep, almost inconsolable, grief to her husband. But in the care and education of his son, in his professional duties, in politics, in all the affairs and duties of life, he sought forgetfulness.

“ But ever and anon, of grief subdued
There came a token like a scorpion's sting,”

and he could not forget the loved and the lost. His mother's softness and gentleness crept to his heart and the strong man mourned, how deeply was never known, save by those who knew him best. If as a balm to his “hurt mind,” he sometimes sought lethe, or that which, at best, brings only chaotic misery, let us remember that there is no darkness like the cloud of sorrow, and if he, who in this wrong world, oppressed with mental pain, “worn with toil, tired of tumult, wounded in love or baffled in hope,” cannot take the wings of a dove and fly from all error, he should find no unforgiving censors in these who have never suffered, and therefore have never fallen.

But Henry K. Smith was always “better than his mood.” However baffled, sad or absorbed, his dignity, his sense of the lofty, and the beautiful, never deserted him; and these gave tone, elevation, spirit to each phase of his life, and rendered its record suggestive. His social qualities were of the highest order. His sensibilities vibrated to the lightest touch. He sought and drew to himself persons of the highest culture and refinement. His faults were, perhaps, as many as those of other men in his sphere of life and activity.

“Then why not speak of them more plainly?” perhaps some cynical critic may ask.

Simply because his virtues, his talents and useful-

ness have thrown them forever into the shade; for such is the destiny of excellence when linked to the common frailties of man.

A traveler who had a passion for visiting antique churches and cathedrals, always sought the charnels beneath them, and always disregarded the grand frescoes and beautiful altar pieces of Horberg, the Madonna of Raphael, the graces of Correggio, the architectural beauty and grandeur about him. When asked why this singular preference, he replied that amid so much perfection, beauty, and elegance, he was anxious to learn how much corruption there was, how much he could find that was revolting. Reader, mine is not the task, nor the preference, of that traveler. It is enough, if in the character and life of men like Henry K. Smith, the bar, society, and humanity have been adorned. Let others search the charnel house for human corruptions.

Mr. Smith died on the 23rd day of September, 1854, in the forty-third year of his age. And as was said by an eminent writer on the death of Sir Robert Peel, "the falling of the column revealed the extent of the space it had occupied."