

held is evinced by the fact, that, during his legislative career, he was the acknowledged leader of the party with which he acted.

It should, however, be remembered, to the honor of Mr. Story, and for the benefit of younger politicians and of later days, that he never was the slave of party. He acknowledged no party ligament, binding him to the support of measures which his sober judgment could not approve. He recognized no code of political ethics distinct from the principles which govern every good man in his private life. On the great questions of national politics, he was always a disciple of the school of Washington.\* While the restrictive system of Mr. Jefferson was avowedly resorted to and pursued merely as a measure of precaution, temporary in its nature, it could command his willing support, without any compromise of consistency. But when it afterwards came to be acknowledged as a system of permanent policy, he stood faithful to his principles in as earnestly seeking its repeal.

It was fortunate for Massachusetts that so much influence was at that time possessed by Mr. Story. From causes, not necessary now to be stated, her supreme judiciary, beside the general odium in which the tribunals of justice are too often undeservedly held, had become peculiarly obnoxious to the democratic party; and yet the aid of that party was indispensably necessary, in order to make some important alterations in the administration of justice, and to place the salaries of the judges on the permanent foundation intended by the Constitution. Prior to the year 1806, their stated compensation, which was very small, had become far inadequate to their support; and it had long been customary for the legislature to make the judges an annual grant of money, to supply this acknowledged deficiency. Yet the language of the Constitution in relation to these officers is, that they shall have "honorable salaries, ascertained and established by standing laws." A vacancy occurring at this time in the office of Chief Justice of the Supreme Judicial Court, the appointment was offered to Mr. Parsons, then in extensive practice in Boston; but it was declined by him, unless the salary should first be made both honorable and permanent, in the spirit of the Constitution. This measure was accordingly resolved upon. His legal eminence rendered his appointment desirable, on public grounds. It was an era of necessary reform and improvements in the law; to effect which, his transcendent talents and weight of character were deemed indispensable. Obnoxious as the bold and decided tone of his politics had rendered him to the party then in power, the friends of the measure, relying with confidence on the magnanimity of Mr. Story, and his devotedness to the true interests of the Commonwealth, at once intrusted to his hands the projection of the means to carry it into effect, and the superintendence of their execution. He accordingly moved the subject in the House of Representatives, was appointed chairman of the committee to whom it was referred, and reported a bill, fixing the salaries of the judges at what was then deemed an adequate provision. The proposition met the usual fortune of similar measures, in being furiously assailed; but its fate, from the position in which Mr. Story was placed, was wholly in his power; and to his vigorous efforts, and the earnest appeal of his commanding eloquence, it is but justice to accord the merit of its success.

The same causes which led to the permanent establishment of these salaries in 1806, soon rendered another effort necessary to augment them. The judicial administration of Chief Justice Parsons had fully satisfied the public anticipations; but the experiment, as far as the emoluments of office were concerned, had convinced him that, in accepting it, he had sacrificed a portion of the income necessary for his family. He therefore came to the resolution of returning to the bar, unless this deficiency was supplied by the State. At this time, in 1809, his political opponents controlled both branches of the legislature, and, flushed with recent success, felt little disposed to gratify a leading adversary, especially in a grant of money, a measure not unfrequently hazardous to the party in power. The alternative too, of loosing the public services of the Chief Justice, had little weight with those who, in that case, would have the opportunity of appointing his successor. But Mr. Story was still in the legislature, possessing undiminished influence; and his magnanimity and love of law and order were again invoked, not in vain, to place the judges on such an establishment as would at all times command for that eminently responsible office the first order of legal talent. A bill for increasing the salaries of all the judges was accordingly reported, and, in the hot contest which ensued, the blows fell with indiscriminate force upon all its supporters, and upon none more furiously than on him who again led the column of its friends; but it was at length triumphantly carried. His able report on this occasion is an unanswerable argument in favor of an honorable and permanent support for all persons to whom the administration of justice is confided. That period was a crisis in the history of our judiciary. The judges were all of the federal party; and the usages of that day, sanctioned by ancient custom, seemed

not only to permit, but to require, from the court, in the charge to the grand jury at the opening of each session, a discourse on the political institutions and affairs of the country. In expounding these, it was hardly possible to avoid discussing some of the essential doctrines of the two great contending parties; a practice in no sense welcome to the men then in power, and which they were resolved, by any legal method, to prevent. The most obvious and simple process was to drive the judges from office by depriving them of competent support; the first step to which was a clamor against high salaries. Had it been openly and generally adopted as a party doctrine, that the emoluments of office were already too high, and must be reduced, the tone of political morals, at that day, would have bound the party to be consistent, by making a general and extensive reduction; and it is easy to foresee the fate of the administration of public justice, confided, as in that event it must have been, to men of inferior abilities. It was necessary that this threatened evil should be speedily stayed, and the public mind disabused of the prejudices which were beginning to fasten upon it; and it is no disparagement to the other friends of sound policy and good order to state, that, for the salutary change of sentiment on this subject, Massachusetts is chiefly indebted to the discernment, the straight-forward honesty, and moral courage of Mr. Story. Few young men, in the ascending node of power, would have ventured on so bold a measure as openly to oppose the darling prejudices and passions of their friends; and it proves much for the good sense and discernment of those friends, that such a measure was permitted to be so completely successful. It is to the permanent and honorable provision then made for the judges, that the people of this Commonwealth may attribute the blessings they have since enjoyed in a wise, dignified, and firm administration of justice.

In the year 1809, Mr. Story was, without opposition, elected a representative in Congress. He served only for the remainder of the term for which he was chosen, and declined a re-election.\* But in that brief space, in two important movements, he gave earnest of the elevation of his views as a statesman, and of his deep devotedness to the policy of the Father of his Country.

It was in November, 1811, at the early age of thirty two, that Mr. Story was appointed by Mr. Madison as one of the Associate Justices of the Supreme Court of the United States. Never was this high honor so early achieved; never more purely and worthily won. Adjusting himself to the proprieties of the station to which he was now called, he withdrew at once from the political arena; and, though never an indifferent spectator of his country's fortunes, he ever afterwards participated in them not as a partisan, but as a judge.

The year 1829 was the commencement of a new era in his life, in the foundation of the Law School of this University, by that eminent lawyer and statesman, Nathan Dane. Impressed with a deep and just sense of the value of sound law, as a conservative element in free government, he conceived the plan of this School; and sending for Mr. Justice Story, submitted it to his judgement, requesting him to become the first occupant of the professor's chair. That his acceptance of the office was made the indispensable condition of its endowment by Mr. Dane is now perfectly certain; without it, the plan would not have been carried into effect. Honor to the memory of the patriot, whose enlightened forecast originated the noble conception, and whose munificence gave it vitality! Honor to the illustrious *fundator perficiens* who generously gave himself to secure its success! The overture having been accepted by the Corporation of the University, with its condition, that the first professor should be appointed by the founder, he designated Mr. Justice Story; who thereupon removed his residence from Salem to Cambridge. To the duties of this new office, accepted purely for the advancement of the science of law, he brought all the affections and energies of his early manhood, and continued to expend them for that object, with almost prodigal liberality, during the remaining years of his life.

The first fruit of his labours in this chair was the publication of his "Commentaries on the Law of Bailments," being the substance of his lectures on that head. In the method of this work, he followed the example of Domat and Pothier; and not only incorporated into the text every position in their treatises, which could be of use to the student of the common law, but may be said to have exhausted the works of the civilians and common law writers, of whatever could illustrate the subject.

His "Commentaries on the Constitution of the United States" were published in the year 1833, in three volumes; followed by an abridgement by the author, in one volume, as a text-book for students. This great work, comprising a sketch of the charters, constitutional history, and jurisprudence of the British American Colonies; a review of the constitutional history and the confederation of the States; with a history of the origin and adoption of the

\* His political principles was thus stated by himself, in a letter dated January 23, 1831. "I was at all times," he observes, "a firm believer in the doctrines of General Washington, and an admirer of his conduct, and measures, and principles, during his whole administration, though they were to me matters of history. I read and examined his principles, and have made them in a great measure the rule and guide of my life. I was and always have been a lover, a devoted lover, of the Constitution of the United States, and a friend to the union of the States. I never wished to bring the government to a mere confederacy of States; but to preserve the power of the general government, given by all the States, in full exercise and sovereignty, for their protection and preservation."

\* Of his withdrawal from political life, he thus speaks, in the letter before quoted:—"I had been long satisfied, that a continuance in public life was incompatible with complete success at the bar; and the few though brilliant exceptions, which I have since known, to the truth of the remark, and the many confirmations of it, have made me resolute at all times in my advice to ambitious young lawyers, never to seek public life, if they meant to be eminent at the Bar. Besides, I cannot disguise that I had lost my relish for political controversy, and I found an entire obedience to party projects required such constant sacrifices of opinion and feeling, that my solicitude was greatly increased to withdraw myself from the field, that I might devote myself with singleness of heart to the study of the law, which was at all times the object of my admiration and almost exclusive devotion."