Hillsborough Recorder.

UNION, THE CONSTITUTION, AND THE LAWS—THE GUARDIANS OF OUR LIBERTY.

Vol. XVIII. THURSDAY, NOVEMBER 8, 1838. No. 944.

From the New York Review.

CHIEF JUSTICE MARSHALL,

HIS LIFE AND PUBLIC SERVICES.

When in one of our late numbers, we had occasion to review the decisions of the Supreme Court of the United States upon constitutional questions, it occurred to us that a somewhat more extended view of the life, character and services of Mr. Chief Justice Marshall might be useful, that could properly find a place in that article. We avail ourselves of an early opportunity to carry into execution the intention which then floated loosely in our mind, and propose to lay before our readers some sketches of his biography, and literary professional labors. If it be pleasant, "through the loop holes of retreat," to gaze upon the passing scenes of the busy world, it is not less pleasant, and it is generally far more instructive, to turn back upon the past, and to recall the images of those who, having acted their parts upon the great theatre of human life, are now gathered to the dust of their ancestors, and have left to us the inheritance of their deeds and their fame. We are thus enabled, amidst the hot pursuits of business, and the eager and jealous rivalries of party strife, to pause for a moment, and to see, as it were, reflected from a distant mirror, men and things in their just and natural proportions, stripped of the pageantry which sometimes disguises their deformities, and deprived of the glare of those false lights which cheat the understanding even more than the senses. It has been sometimes said, and there is great truth in the remark, that if you would know what a man really is, you should inquire what audience he addresses: whether he addresses the present age or posterity—whether he seeks the applause of the giddy multitude of the hour, or the slow praise which rises from, rather than settle on the tomb—whether he aspires to the fame which is born on the breath of the living, satisfying and sating, or that which rises unbidden in the hearts of the wise and good in after generations, and though it be voiceless to the world, speaks to the conscience and the souls of men with a thrilling power, the more irresistible because unsuspected. The example of a good man is rarely without its full influence; that of a great man who has stamped his own character upon his own age, cannot fail to have much to do, for encouragement or admonition, with the destinies of those that come after him.

The biography of Mr. Chief Justice Marshall has not as yet been written, and it is yet uncertain when it will be. We do not, in this country, usually take much pains to gather up the private anecdotes, or memories, or papers of eminent men, until long after their decease, when most of their cotemporaries have passed away from the scene, and those who survive have in their recollection only faded pictures of the past, often obscure and dim, and generally with out the freshness and warmth of early sketches. In other countries, a more earnest, and sometimes misplaced, solicitude is exhibited to preserve and narrate what is not well known; and to give us, almost at the moment of the death of the individual, the side lights of his character—the habits of his mind—his table talk—his peculiar tastes—his various or close pursuits—the familiar pleasantries of his private life—the occasional shade and sunshine which played about his character—his marked sayings—his dreams as well as wide-awake speculations—and even the little touches of human infirmity which, when not entirely graceful, are yet of a nature to let us into the inner man, and reconcile us somewhat to the steady contemplation of his greatness, by teaching us that he was mortal. We order all these things differently in America; sometimes from a delicacy of feeling towards the living—sometimes from a shy reserve—sometimes from a dread of being intrusive or impertinent—and sometimes from the notion that all our public characters should, like heroes upon the stage, be dressed up for dramatic effect, and preserve throughout the dignity of their holiday costume. There is nothing very reprehensible, or even perhaps inconvenient in all this. But our sad, not to say our often shameful neglect of the private papers of our great men, and our tardy justice to their fame, in leaving their memories to the chances of misrepresentations and mistakes of friends and foes—and sometimes our equal mischievous indiscriminate publication of all that is left, without considering that much which is written by men of a hasty and irritable and jealous temperament, may reflect dishonor upon themselves by its petulence, its injustice, and its resentments; these are matters of deeper regret, and more enduring mortification.

In the case of Mr. Chief Justice Marshall, we have few materials for the story of his life, beyond what may be gleaned from the eulogies delivered soon after his decease; and these are necessarily brief, and dwell principally upon his public acts, and the events connected with them. We are compelled to rely on these for the main outlines of our own sketch.

John Marshall was born at a place called Germantown, in the county of Fauquier, Virginia, on the 24th day of September, 1765. At the time of his birth, Fauquier was one of the frontier counties of the state, though now in the centre of its population. His grandfather, of the same name, was a native of Wales, and settled in Westmoreland county, in Virginia, about the year 1730, where he married Elizabeth Markham, a native of England. Of four sons and five daughters of this marriage, Thomas, the father of the chief Justice, was the oldest, and according to the law of primogeniture, then in force in Virginia, inherited the family estate, called the "Forest," consisting of a few hundred acres of poor land in the same county. He removed from Westmoreland to Fauquier, soon after he attained to manhood; and having intermarried with Mary Keith, by which marriage he became connected with the Randolphs, he set down upon a small farm at the place where John Marshall, his oldest son, was born.

Thomas Marshall, the father, was a man of extraordinary endowments, great vigor, and undaunted courage. His original education was very narrow and imperfect; but he overcame these disadvantages, by the diligence and perseverence with which he used all the means within his reach of enlarging his knowledge, and refining it by a studious attention to polite as well as to solid literature. He was from his birth a near neighbor of General Washington; they were associates during their boyhood; and continued friends through the whole course of their lives. Lord Fairfax, the then great proprietor of the northern neck of Virginia, which included Fauquier, employed General Washington as surveyor of the western part of his territory; and Washington employed his friend Marshall in the same business. When the revolution broke out, Thomas Marshall received the appointment of commander of the third Virginia regiment upon the continual establishment, and was in service during the memorable campaign of 1776. He was engaged in the brilliant affair of the surprise and capture of the Hessians at Trenton, in December of that year. Afterwards on the 11th of September, 1777, he was placed with his regiment on the right of the American army at the battle of Brandywine, and received the attack of Lord Cornwallis. The regiment, on that occasion, maintained its position against superior numbers, without losing an inch of ground, until both of its flanks were turned, its amunition nearly expended, and one half of the officers and one third of the soldiers were killed or wounded. Colonel Marshall, whose horse had received two balls, then retired in good order to recover his position on the right of his division; but it had already retreated. His subsequent military services were equally honorable; and he maintained through life the character of a gallant soldier, an accomplished gentleman, and an unflinching patriot.

The scenes among which young Marshall was reared, were well calculated to nourish a spirit of independence, and to give vigor to a sound physical constitution. To them he probably owed that robust health, which carried him almost to eighty in the enjoyment of the *mens sana in corpore sano*. His imagination was warmed, and his genius kindled, and his self-reliance strengthened, by the variety of landscape about him. Nature every where around him exhibited its wild original features of irregular grandeur. He was accustomed to gaze on the mountains with a silent reverence—to penetrate the deep gloom and pathless recesses of the forest—to slake his thirst in the sparkling rills which leaped from promontory to promontory, or trickled down the valley with a gentle murmur—and to repose himself after his wanderings in the darkling shades of some lonely dell. And thus the spirit of poetical enthusiasm was awakened in his heart—a spirit, which became the companion of his youth, and the delight and solace of his riper years.

A frontier county, however, was not the place, among a rude and sparse population, where he could hope to cultivate a literary taste. His father, the companion and guide of his early days—by whose conversation he was elevated—saw too clearly, that he must go to other regions to acquire the rudiments of a solid education. He accordingly sent him, at the age of 14, to Westmoreland, at a distance of a hundred miles from home, where he remained under the tuition of Mr. Campbell, a clergyman of great respectability, above a year. He then returned home, and continued his studies under a Mr. Thompson, a Scotch clergyman, who was just inducted as pastor of the parish, and resided in his father's family. He pursued his classical studies under this gentleman for another year, and was then left to his own strenuous diligence to accomplish his mastery of the Latin language, with the help only of his grammar and dictionary. His attainments in that language were highly respectable; and when he was thus left to his own unassisted studies, he was just commencing the works of Livy and Horace. His attainments in English Literature were almost entirely owing to the intelligent care of his father, whose library contained many of the best writers of the age of Queen Anne, and whose taste and discernment led his choice to the fairest and most interesting models of that age. "My father," (said he, in a letter to a friend, written many years afterwards) "superintended the English part of my education, and to his care I am indebted for any thing valuable which I may have acquired in my youth. He was my only intelligent companion; and was both a watchful parent, and an affectionate instructive friend. The young men within my reach were entirely uncultivated; and the time I passed with them was devoted to hardy athletic exercises."

In this state of things he was found at the first outbreak of the American revolution. Fired with the love of liberty, and indignant at the impending oppressions of his native land by the domineering authority of the mother country, he at once gave up the study of the law, to which, as a profession, he meant to devote himself, and ardently engaged in the study of military tactics. Immediately after the battle of Lexington, he assisted in the organization of a battalion of minute men, in which he was soon after appointed a first lieutenant. In the autumn of the same year he marched with his company to the relief of Norfolk, then threatened by a predatory party under the command of Dunmore, which was repulsed. In July, 1776, he was commissioned a lieutenant in the eleventh Virginia regiment on the continental establishment, and was advanced the next year to the rank of captain. From that time, with a brief exception, he continued in active military service, until Feb. 1781. During this period he was engaged in the hard and perilous operations of the campaigns in the Jersies and Pennsylvania. He fought at the battles of Brandywine, of Germantown, and Monmouth. In 1779, he was in the covering party at Stony Point, and assisted in the detachment which covered the retreat of Major Lee, and his brilliant surprise and capture of the British Garrison at Powles Hook. In the winter, and spring and summer of 1780, being on furlow with other supernumerary officers of the Virginia line, he resided at Williamsburg in Virginia, and attended the law lectures of Mr. (afterwards Chancellor) Wythe, in William and Mary's College. He resigned his commission in February, 1781, finding, from the superabundance of officers in the Vrgina line, that there was no chance of active military employment; and in the succeeding autumn he commenced practice at the bar. During his military career, he did not arrive at any higher rank than that of captain; but this was not owing to any defect of high military qualities, but resulted from the slow progress of promotion in the Virginia line, since there was, as has been already intimated, a great superabundance of officers. His merits, were not, however, overlooked. He was often employed in high confidential stations; and he served as deputy judge advocate on many occasions with great distinction, and the unreserved confidence of all officers of the army with whom he was brought in contact. Perhaps no man, by his gallantry, his genteelness of demeanor, his urbane but dignified conduct, his intelligence and disinterestedness, and activity in behalf of his friends, ever acquired a more enviable popularity among his brother officers. To the day of their deaths, the veterans, who had known him and served with him, spoke of him with a tenderness of affection, and a warmth of admiration, rarely to be found among those who have not been influenced by the claims and homage of superior rank. To the kindness of his old companions in arms, the chief justice was accustomed in his modest way, to attribute the success with which his early efforts at the bar were crowned. "They knew," he would say, "that I felt their wrongs and sympathized in their sufferings, and had partaken of their labors, and that I vindicated their claims upon their country with a warm and constant earnestness."

From the Southern Citizen.

FANNON'S MARE.

The exploits of Fannon, the famous tory partisan of Randolph, would make a body of facts more interesting than any tale of fiction. He was a reckless fellow—bloodyminded as the hounds of Hayti. He sometimes slew the helpless and innocent in cold blood—the coward! But he had that instinctive tone and bearing of authority that kept his people within the metes and bounds of his own despotic will. He and his party were one day resting themselves by a spring; lounging here and there on the green grass in the shade of the trees. One of his subordinates, a big strong man, had got mad with him. His rage had been boiling in him for several days; and some fresh affront at the spring caused his anger to become ungovernable—he drew his sword and rushed at his captain, swearning he would kill him. Fannon had stretched his slight form on the sward, and was resting with his elbow on the ground and his hand under his head. His devoted followers were around him, and he heard the click of their locks as they cocked their rifles. "Let him alone!" cried Fannon, in his quick sharp tone. He laid still, calm and self-possessed, with his keen dark eyes fixed on the raging lieutenant, as he made a tremendous plunge at his breast. But when the stroke came, its object swerved away like a snake, and the baffled man plunged his sword into the ground. Quick as lightning Fannon's sharp blade passed through his gigantic frame—"*Thus* and *thus*, I punish those who disregard my authority!"—and his eyes sparkled like a serpent's. The man sank to the earth forever.

But "Fannon's Mare" is written at the top of this sheet: and she is the heroine of this present writing. Achilles had his Xanthus and Balius, and Poadargæ; Alexander and his Bucephalus; McDonald had his Selim. Fannon was a man of blood, like them, and like them he had his favorite and trusty charger; and Fannon's mare was worthy of her owner, or "even a better man." He called her the Red Doe, from her resemblance in color to deer. She was a rare animal—fleet, powerful, intelligent, docile as a lamb—and her owner valued her, I dare say, above king or country, or the life of his fellow man. She bore him proudly and fearlessly in the bloody skirmish or the quick retreat. When he stood in the noisy council of his partisans, or in the silent ambush, the faithful brute was by his side, ever ready to bear him withersoever he would. But Fannon lost his mare.

Down on the east of Little River the partisan and some four or five of his followers one day captured a man by the name of Hunter, a whig from the country about Salisbury. This was sufficient cause of death, and Fannon told the man he should hang him. Hunter was evidently *a man of the time;* but what could he do alone and defenceless, with a dozen bitter enemies? It was a case of complete desperation. The rope was ready, and, a strong old oak threw out its convenient branches. Fannon told him he might pray, for his time was come! The poor man kneeled down and seemed absorbed in his last petition to a throne of mercy. Fannon and his men stood by; and the trusty mare stood among them with the reins on her neck. They began to be impatient for their victim to close his devotional exercises. But they soon discovered there was more of earth than heaven in Hunter's thoughts; for he suddenly sprang on Fannon's mare, bowed his head down on her powerful neck, pressed his heels on her flanks, and darted away like the wind!

The tory rifles were levelled in a moment—"Shoot high! shoot high!" cried Fannon—"save my mare!" The slugs all whistled over Hunter's back, save one that told with unerring aim, which tore and battered his shoulder dreadfully. He reeled on the saddle and felt sick at heart; but hope was before him—death behind, and he nerved himself for the race. On he sped. Through woods, and ravines, and brambles did that powerful mare carry him, safely and swiftly. His enemies were in hot pursuit. They followed him by the trail of blood from his wounded shoulder. He came to the Little River; there was no ford: the bank was high, and a deep place in the stream before him. But the foe came—he drew the rein and clapped his heels to her sides, and that gallant mare plunged recklessly into the spray, she rose, pawed the yielding wave, arched her beautiful mane above the surface, and skimmed along like a wild swan. Hunter turned her down stream in the hope of evading his pursuers; and reared and dashed through the flashing waters of the shoal, like lightnig in the storm cloud.

But Fannon was on the trail, and rushing down the bank with all the mad energy that the loss of his favorite could inspire. Hunter turned the mare to the opposite bank, it was steep—several feet of perpendicular rock—but she planted herself on the shore at a bound: and then away she flew over the interminable forest of pines, straight and swift as an arrow—that admirable mare!

On and on did the generous brute bear her master's foeman, till the pursuers were left hopelessly behind. Late in the evening Hunter rode into Salisbury, had the slug extracted from his shoulder, and after lingering some time with the effects of his wound and excitement, finally got well. And that gallant mare, that had done him such good service, he kept and cherished till she died of old age.

'76.

Guadaloupe.—We have just received distressing intelligence from Guadaloupe of the date of the 30th of July. The yellow fever which had appeared in the hospitals of that Colony, has extended itself beyond their walls, and caused great havoc. The European soldiers were dying by dozens every day, and military duty in consequence was much neglected. M. de Sambossi, the King's Attorney at Marie Galante, has died of the disease, and many magistrates have been attacked by it. *Le Constitutionnel.*

From the Standard.

STATE AFFAIRS—No. 13.

MR. LORING:—The Raleigh and Gaston Rail Road Company was incorporated for the purpose of making a rail road from Raleigh to Roanoke river, at a point above Halifax, where a new town has been laid out and called Gaston. The books for subscriptions in said company were opened, and a capital of about 700,000 dollars subscribed. This work was commenced after the usual preparatory surveys, and up to this time it has been prosecuted with zeal and energy. It is in daily use *one half of the distance* (or 40 miles,) and the other half is progressing. The original estimate of its cost was one million of dollars, and the confidence in its success and its profits so strong that the company made no great exertions, at the out-set, to enlarge the original subscription beyond 700,000 dollars, they entertaining the opinion that the additional stock would soon go above par, and thereby yield a handsome profit to the first proprietors. Since the road was begun and the subscribers have paid in their stock, it is ascertained that these expectations about a rise in the stock are not realized—that it will take 1,200,000 dollars, or more, to build the road—and that new subscriptions cannot be obtained. The friends of the road have not lost confidence in its ultimate success, but any man of intelligence can perceive that, under existing circumstances, the stock of necessity must be depressed in the market; and the company will soon be embarrassed in their operations, unless they can be aided from some quarter.

Their enterprize is one which is not now offered for the first time to the public. It is one which the public is not called on to *begin*, or to assist others in *commencing*. Were it so, the scheme would find no present support from me. The state, as I have all along maintained, ought not to encourage a system of improvement that is calculated to divert her trade. The *primary* duty of North Carolina is to open a way for her *own trade* to her *own sea-board*. In this, I think a majority of our people concur. But here is a work which has been already begun. It has been carried more than half through. It is a work of value to the public, although it does not constitute a branch in our adopted *system of state improvements*. Our citizens have invested a large sum in the enterprize, and when completed, the road will add something to the general good, by promoting the local interests of many of the interior counties—and particularly it will add to the wealth and importance of the *seat of government*. Let no one suppose that this last consideration is urged upon the idea of there being any peculiar connexion between the public interest and the personal wealth of the citizens of Raleigh. I mean no such thing. The importance of which I speak will be this: Supposing this road to *stop* at Raleigh (as I hope it will, at least for the present,) thereby an easy access will be afforded eastern gentlemen to a pleasant and healthy spot for spending those seasons of the year which are now *mis-spent abroad*. The wealth which is yearly drained from our state to purchase trips to the north will more likely be spent at home, and the delightful and patriotic pleasure of mingling together at our own Capitol, and on our own mountains, and contributing each to a common stock of Carolina sentiment, will be a rich compensation for the enjoyments that are so dearly obtained elsewhere. Our seat of Government will, or at least it might, be made also a *seat of Science* and a nursery for southern patriotism and North Carolina *State-pride*. This is the sense in which I speak of any work as being important to the *state*, because it is important to the *seat of government*. Whilst I am on this subject, and as it has a more direct association with domestic or internal improvements than many are accustomed to consider, I will remark that North Carolina—*the seat of government of North Carolina*—is the most proper location for an institution which, above all others, the whole *south* needs—*a high school for the education of females.*

Not an institution to be supported by state patronage, but a school upheld by the patronage of parents and guardians, where our daughters may learn *all* the accomplishments and other more important matters which southern parents dearly pay for at northern cities. Being accustomed to gather facts for myself, rather than quietly to acquiesce in the inferences of others, I availed myself of an opportunity which was afforded by a visit to Philadelphia and New York not very long ago, to ascertain as near as I could, what sum the gentlemen of our state expend in those cities to educate their daughters; and the result was astonishing. There were not fewer than 15 or 20 of our *North Carolina* girls amongst the inmates of the city schools, and their aggregate expenditures were about 20,000 per year! A sum equal to *one-third* of the whole expenses of our *state government!!* A sum which being applied at *home* to the same purposes, would alone endow the school. A sum which probably no man would credit, unless it had been arrived at by actual count! Remember that this was the outlay, not of the *south*, but of *North Carolina*, and tell me if it is not a subject of general importance. It is useless to rail at people about leaving the graves of their sires to seek new homes in the west, unless we exert ourselves to make it their *interest to stay here*. It is idle to complain of parents for sending their daughters to Philadelphia and New York, &c. to be educated, unless we concentrate our efforts to establish amongst ourselves equal opportunities for their improvement. In this, as in every other internal improvement, *talking* does no good, we must DO something.

Pardon this apparent digression—all who read these essays will probably not esteem it so.

The Raleigh and Gaston rail road then claims our aid—because it has been commenced and its success will promote the local interests of many interior counties, viz: Wake, Chatham, Orange, Granville, Warren, Franklin, and perhaps others. Because it will greatly increase the importance of our seat of Government, and open the way to the establishment of a literary institution for the education of females, whose parents now expend thousands elsewhere. Because if this road fails for lack of reasonable assistance, its failure would produce a revulsion in public sentiment, that will operate injuriously upon the cause of improvement generally. Because this road may be helped by the state without great risk, without burthening the people, without interfering with her own adopted policy and system, and it *may* appear practicable hereafter to make it an important and valuable part of our *system*. Then wherefore shall that aid be refused? Why shall not the friends of our *home* policy give it their countenance and support? They will answer for themselves, after it is shown how all this may be done, and after I have met and refuted the objections commonly made against it.

I feel sure that a *subscription* to the *stock* of the Raleigh and Gaston road will not be made. *It ought not to be asked.* What right has a representative of the *state* to take the public money and buy stock at 100 dollars per share which in the market is not worth 75 dollars? The vote would be indefensible and it cannot be procured. Were it a new stock there would be nothing like the same objection to it—a chance of depreciation would be then accompanied by a chance of profit; but this stock is now greatly below par, and the state agents however confident in their estimates of a future advance on the price, dare not invest the public money in buying a depreciated stock at par; or what is the same thing, by entering into the partnership when the stock is depreciated 20 or 30 per cent. Any member of Assembly who would not be willing to lay out his *own money* in the purchase of a named stock, has no right to buy that stock with the *public* funds. Would a prudent man buy at 100 dollars per share, stock in this rail road now, when the stock-holders (many of them) would take 20 or 25 per cent. less for their interests? For this reason, as well as for the oft-repeated sentiment of what is the *primary* duty of the state, I do not advocate a *subscription* to the *STOCK* of the Raleigh and Gaston road.

The President of the company, it is generally understood, has been authorized to raise money upon the bonds of the company and give a lien upon the road to secure payment. Whatever may be thought by others, I cannot but apprehend that this loan will be effected (if effected at all) upon very disadvantageous terms. I hope I may be mistaken, but money lenders are exceedingly wary, and there are so many opportunities for investing their wealth upon *undoubted security*, that they require heavier interest from private corporations, and generally allow short credits. Now it is plain that the Raleigh and Gaston road cannot get an advantageous sale of their bonds where only a little more than half of the capital *necessary to its completion* has been paid in, and there are no other remaining subscriptions to be collected. It is possible that a loan of 300,000 dollars might re-animate confidence, and thereby induce its patrons to subscribe more in the stock; but that is to be tried yet, and it will hardly be the case unless the loan is granted for a great length of time. Any period short of 20 years credit would expose individual proprietors to a total loss of their stock by a foreclosure of the mortgage. Thus: Suppose a loan is obtained for 300,000 dollars; the principal payable after 10 years, the interest to be paid annually. That amount being expended in the construction of this road; 300,000 dollars more will be necessary to *complete it*. If the latter sum is not also procured, the difficulty will have been deferred, but not removed; and if it is procured, their debt will be $600,000. Then at the expiration of 10 years, the principal of the debt being demandable, its payment will *ruin* the corporation, unless the profits have been sufficient to pay the DEBT AND INTEREST! Indeed, a rail road which costs a million and yields a handsome profit on that sum, may be ruined by a debt *immediately* payable to the amount of one-fifth of its cost, or one-fifth of its real value. Such might be the embarrassments of this