

COMMUNICATIONS

FOR THE REGISTER

COLUMBIA, S. C. COLLEGE, Feb. 18.

WILLIAM GASTON.

Quis desiderat sic pudor dicit modus. Tam enim capitis. Incorporea Fides, nudaque veritas. Quando allium inveniat parem?

Mr. Editor: Amid the general and just mourning that now pervades your State for the loss of one of her greatest and best citizens, permit a mourner from abroad, once one of yourselves, to bring among others his offering of eulogy and sympathy to the fresh grave of WILLIAM GASTON, and to mingle his tears with yours. It would be an effort of painful self-denial to imprison in my heart the respect and gratitude I feel for the dead. Ever since I was a child of 12 years, wandering under the magnificent oaks that lend their useful shade to the students of Chapel Hill, the name of William Gaston acted like magic on my mind and other youthful minds. The news that he was to be at our approaching examination, sent a tremor through the heart of the laggard, while it warmed with an honest glow the breast of the diligent student, who knew that he would have an auditor and a witness who could appreciate his merit as a scholar, and whose then dawning reputation made even a smile of his, thrilling to the soul. Well do I remember the day when, a school-boy just entering my teens, I stood before a bar of Trustees of which he was the luminary, just then in the eastern horizon of his fame, beginning to give his country cheering auguries of his resplendent meridian. Well do I remember when reciting before him that sentiment of Salust, which has been the inspiring motive of his own patriot life "Pulchrum est benefacere reipublice." I received the smile of his approbation, and my young heart first knew the delicious emotion "laudari a laudato viro." And if ever that heart has since been beaten with the love of excellence, and if I have ever marveled, in any humble measure, that confidence of the two Carolinas, which has entrusted me with an important share in the education of their sons, I may owe it in no small degree to that thrill of pleasure which shook my soul at the threshold of my education, and the benignant friendship which has seconded my efforts ever since. I mention this, I trust, from a better motive than egotism. I would have men whose fame causes them to be looked up to by the admiring eyes of the young, to know the influence they have, when they little suspect it, on their youthful admirers. I would have them know and improve one neglected way of "letting their light shine before men." Let them attend the examinations of our schools and colleges. Let the presence of distinguished strangers teach the examiners and examinees that their merit or demerit shall meet the notice of an august tribunal. This shall rouse the faculties of the sluggish, and add new wings to the ardent; and if there be in the mass of youthful minds any elements for the future service of the country, this crucible shall torture them forth and sever them from the ore. It must be a grateful thought to North Carolina, now that she is lavishing posthumous honors on her lamented citizen, that she has no reason to reproach herself with too tardy gratitude. She gave him, while living, every thing in her gift that he could accept, as a sign of her esteem and attachment, and now bestows him with dead, "as one is in bitterness for a first born." It must be a consolation in her distress, to reflect that the column on whose broken shaft she is now gazing with the stupefaction of a recent shock, was not left to stand, an insulated pillar mere for the eye to repose on as a national trophy; but that she made it an incorporate buttress of her State edifice—a main pillar to uphold the Temple of her laws. From that honorable burden, which his "Atlantean shoulders" so well fitted him to sustain, those laws themselves, literally and rigorously interpreted, would have excluded him, and thereby have been obliged to rest upon some feeble prop; for Mr. Gaston was a Catholic, and one of the most interesting passages in his life, and one which threatened most seriously to throw a stain on the purity of his estate, was his acceptance of a high judicial station under a State Constitution which verbally confined its honors and its trusts to Protestants. I cannot entirely approve the act. To my mind, there is a flaw in the argument by which it is supported, yet, though the love of Protestantism is ingrained and interwoven with every fibre of my frame, and is connected with my name since the glorious days of the Marian martyrs, and I hope ever will be, I can easily see in this case, reasons which might have satisfied the understanding of a wise man, and lulled the scruples of a pure man. Mr. Gaston knew that the fundamental principles of all American law, both State and Federal, is that no man is to be deprived of any rights, political or personal, because of his religion. He knew that perhaps all the States with the exception of his own, had acted on the principle, and had pressed into their service all the talent and virtue they encompassed, without imposing conscientious restrictions. He saw in the Constitution of North Carolina, a remnant of that distrust of Catholics, which past English history might excusably leave on the minds of a young and jealous State, just relieved from smarting under civil and ecclesiastical tyranny. He saw that that statute was far behind the spirit of the age; that that cautionary bulwark was the work of his infant country, tremulous of her new-born liberties. But that since she had shot up to adult and vigorous maturity, and gloried in the consciousness of impenetrable freedom, she was ashamed of the timid provisions of her nonage, and claimed as her right, the appropriation to her use of all the rich, intellectual and moral gifts, with which a munificent Heaven might have appointed her children. Her enlightened sons of this generation could not consent to let her pearls lie locked up in the caverns of ocean, because their good mother, some 60 years ago, had, from maternal fears, forbidden them to venture on the perils of the diver. Public opinion therefore, sternly repealed the statute, before its formal adoption. Public opinion, public confidence, public enthusiasm, and to Wm. Gaston, "You are come—we want, we demand your services. We know this statute lies in the way, but by our nomination and choice of you, we show you that we consider the excluding statute a dead letter. We exonerate your conscience, and make the responsibility ours." This was not sophistry, purposely woven to make a veil for the eyes of a mercenary office-holder, or a hesitating candidate. It was what Mr. Gaston, as a lawyer, was accustomed to. He knew that there were a number of laws remaining on the statute book, which had become a dead letter, having by general consent dropped into desuetude, and which it would have been folly and useless

to think of re-enacting. This, he may have thought, and his friends and electors may have thought, justified him in accepting office against the letter of the law. Surely it might be pardoned, if both electors and elected thought this a case where our legislation should "be not of the letter but of the spirit, for the letter killeth, but the spirit giveth life." This argument derives weight, when we reflect that the excluding article was in the mind of the State, already repealed by anticipation, and every one knew that only a favorable time was waited for to amend the Constitution according to the present wishes of the State. Nothing could prove more plainly the injustice and impolicy of such exclusive statutes than that they would, if thus interpreted by the letter, have deprived the State of the services of such a man. And even when North Carolina waked up to this sentiment, and determined to expurgate her Constitution of this anti-American feature, she, (it would speak with deference,) carried out but half the principle for which she was contending. The word "Protestant" was expunged, and that of "Christian," if I recollect right, was inserted. This was a concession, perhaps, to allay the popular murmurs; but in principle, this limitation was as indefensible as the other. It was still punishing a man for his religious sentiments, which all our American feelings repudiate and abhor. If acted upon, it would have condemned to political obscurity and inaction, such men as Jefferson, perhaps Franklin, and many others, gullible soldiers and able counsellors, who fought our battles and illuminated our Senate. It introduces the odious and vexatious test of what constitutes Christianity, and demoralizes a people by tempting men to hypocrisy. It sets up a standard for the government of this world, which God himself has not authorized. Christ himself said, his "kingdom was not of this world," and the experience of mankind demonstrates, that as God decreed civil governments shall subsist in wisdom, prudence and peace, even where the instruments that control it are not sanctified by His Grace, we presumptuously claim to be wiser than Heaven, when we pronounce none fit for the management of this world, whom we think unqualified for the next. It would be just as rational, to suppose that God had not empowered men to be wise architects, or wise husbandmen, or wise merchants, without grace, as that he had not empowered them to be wise statesmen, without grace. But to return to that obnoxious feature of your old Constitution, which stamped upon the Catholic religion the public reprobation of being dangerous to liberty—if it be a just suspicion, it is just only where the Catholics are foreigners, are ignorant and embodied in a mass, which excludes the salutary impregnation of our enlightened education, our liberalizing literature, our unrestrained freedom of the Press—the genial, warming influence of our political institutions on the citizens who enjoy them. By birth and breeding, exposed to the full action of these modifying and meliorating influences, public liberty, American principles stood in no danger of being betrayed by such a man as Gaston. He was a safe depository of that precious Palladium which Charles Carroll, of Carroll, "pledged his life, his fortune and his sacred honor" to wrest from British aggression. As a Constitutional lawyer, he was too much imbued with the spirit of Runnymede and Magna Charta—as a reader of history, his soul had too often kindled over the magnanimous struggles of the long Parliament, and over the glorious revolution of 1688, to let the error of any creed taint the integrity of his politics, or adulterate the purity of his patriotism. From these causes, some of the most ardent and devoted friends to liberty, among our fathers and among ourselves, have been found among the professed adherents of the Romish Church. No wonder. Ever since England threw off the ecclesiastical yoke of Rome, the English language has been the vehicle of liberal thought on every subject—the chosen dialect in which the finest geniuses and the most gallant spirits have poured forth their eulogies on liberty, and on those who defended it. It is in this nervous language, fit medium for embalming in immortal freshness the sacred truths of virtue and freedom, that Milton, and Locke, and Sydney, and a host of others on the other side of the Atlantic, and our Jays, and Hamiltons, and Madisons, and Jeffersons and Marshalls, on this side, have defended the rights of man, and exhibited the fair theory of National freedom. It is in the British and American Senates too, that the world has listened to the most eloquent advocates of liberty, and caught the enthusiastic flame from the lips of Chatham, and Burke, and Grattan, and Sheridan, and Mr. McIntosh, and Patrick Henry, and Fisher Ames. Hence, every one who is born in a country where the English language is his native inheritance, learns to speak and to read the dialect of liberty, of free thought and unfettered discussion. It is impossible for a youth to grow up in such circumstances, without imbibing every day enlightened notions and a strong passion for civil and religious freedom. If he cultivates his mind, if he goes to a Seminary for public education, all that he reads and all that he hears, rings the same note in his ears. He is continually feeding on the aliment of liberty. Hence, altho' he may have inherited from his ancestors a form of the Christian Religion which restricts the liberty of thought in matters of faith and acknowledges a human master and an earthly tribunal in the single concern of spiritual things, yet on all other subjects he has breathed the atmosphere and been nourished on the manna of Protestantism. He has lived among those, he has been taught by those, all his connections, public and private, are with those, who claim and assert the right of thinking, and examining, and acting for themselves, and who are, at every anniversary paying fresh homage to the memories of Hampden, Washington and Kosciuszko. Thus does American birth, American education, American inhabitation, American life and action, correct and neutralize the poisonous products of other soils, and while that which is exotic and ungenial to our sky and our soil, withers and rots on the surface, our virgin earth shoots up her indigenous giants into the heavens. Thus it is that the emigrants of every Nation—the Irishman, the Frenchman, the German, the Swiss, the Jew, the Greek, drop their peculiarities, as soon as they have inhaled the breezes of the Alleghany, and agree to mingle their blood on our battle fields, and to expend their treasures in sustaining our laws; and thus out of the motley and degenerate mass of European population, does the plastic and assimilating genius of our free institutions form the citizen patriot, we desire: as the unwhorled human corpse, mixed and impregnated with sweet spices and aromatics, is changed into a mass of imperishable fragrances, by the act of the undertaker.

The appointment of Mr. Gaston to the highest judicial office in the gift of his country, in spite of the verbal prohibition of the law, is one of the highest attestations of his pre-eminence. The theory of every Government is more general and rigid in its provisions, than the circumference of human knowledge, and the infirmity of human virtue will allow that Government to be in practice. Hence, general rules have always been relaxed in favor of superlative excellence. The law was intended to bear upon ordinary cases—where nature produces a prodigy, the common sense of mankind pleads for a departure from rules whose general operation is salutary, but whose application to this case would be mischievous, because it would be impiously refusing to accept the bounty of Heaven, or wastefully postponing its enjoyment. The wisest republics have acted thus in letting their laws sleep when the exigencies of the State could not wait for the arrival of the legal age, and when precocious powers of genius and early maturity of talent offered at once the qualifications which in ordinary men, time is required to bring to perfection. Thus Rome withheld her citizens from the high trust of the Consulship, till the mature age of 43. But illustrious merit was always honored by ante-dating the period of its promotion. The law was in these cases violated, but it was violated for such men as Valerius and the Scipios; as Flaminius and Pompey; and Cicero, when summing up all the indications of Pompey's unrivalled claims to the highest military appointment, boasts that he could legitimately attain the *locust*. This wise nation thought that *summum jus, est summa injuria*; that some men are as old at 30 as others are at 50, and that when she wanted the services of a Scipio at 28, and of a Pompey at 36, it was foolish to lose their important services by constitutional fetters, to wait the slow revolutions of the sun, till the emergency was passed away, and her Generals and her Consuls had lost the ardor and activity of youth. So that if the precedent of other nations is appealed to, we shall find a sufficient number of examples where extraordinary merit received a dispensation from the ordinary laws, and this very dispensation, instead of being accounted dishonorable to the incumbent, was considered as the highest possible public expression of surpassing excellence.

I have done. It would be useless as well as presumptuous in me to dwell on his high and comprehensive patriotism—his wisdom as a jurist—his eloquence as a Senator. These are a part of the history of his country. But I hope this humble sketch, intended to vindicate the memory of a benefactor from imputations which might be attached to the only questionable action of his public life, will not seem impertinent and indolent, and that it will serve some useful end to the rising generation of North Carolina who have long been taught to look up to Gaston as a model to excite their ambition and stimulate their efforts; to bear my experimental testimony to the early influence of his bright example, and my attestation to his accomplished scholarship and his tenacious attachment to the elegant literature of Greece and Rome, even amidst the pressure and distractions of the Bar, the Senate and the Bench. How better can I conclude these remarks than by renewing the dirge with which I began them: "When shall his country 'look upon his like again!' Quando ullum inveniet parem!"

W. HOOPER, So. Ca. College.

FOR THE REGISTER.

Mr. Editor: Listen to the "Standard" man—"We observe that Mr. Clingman is still voting with the Abolitionists." In what Mr. Clingman voting with the abolitionists? He votes with J. Q. Adams on the sacred right of Petition, and I think he is decidedly in the right. Is that voting with the abolitionists? I am clearly and decidedly of the opinion, that Congress has taken the wrong stand on this question. Congress has no right to reject the petition of any person or persons, let their petition be what it may. The Constitution guarantees to all its citizens the right, "peaceably to assemble and petition Congress for the redress of any grievance." If we of the South should choose to inundate Congress with petitions to expel any member, whom we may consider a "grievance," Congress is bound to receive and entertain our petition; therefore, I contend that Mr. Clingman is right in voting to receive what we of the South call "Abolition Petitions."

What does the Editor of the Standard do with the Constitution, in charging Mr. Clingman with voting with the Abolitionists? It is a false position, to charge Mr. Clingman with "voting with the Abolitionists." Suppose, for instance, we of the South should choose to petition Congress to construct a Bridge across the Atlantic for foot passengers? Who has the right to reject our petition? Congress has not, and they are therefore bound to receive and entertain our petition.

That Mr. Adams has presented some most absurd Petitions to Congress, all agree; but nevertheless, according to Mr. Adams' interpretation of the Constitution, they are bound to entertain them. People charge John Q. Adams with being an Abolitionist. For my part, I think it is the right of petition that he is contending for. That he may have a feeling in common with the North, of repugnance to Slavery, will not for a moment be denied.

SINGLETON.

FOR THE REGISTER.

To the Editor of the Standard: You say that the people, in putting down John Q. Adams, put their seal of condemnation on Mr. Clay; and you further insinuate that, having been condemned, in connection with Mr. Adams, he ought not to aspire to the Presidency now. It's an old saying, that it's a bad rule that wont work both ways. In 1840, the people, in electing Gen. Harrison, "put their seal of condemnation" on Mr. Van Buren; and, therefore, he ought not to aspire to the Presidency.

MANFRED.

TRIBUTE TO JUDGE GASTON.

The members of the Bar in attendance at the Court of Pleas and Quarter Sessions of Rowan County, convened for the late Honorable WILLIAM GASTON, sentiments of the highest regard and admiration for his many virtues and profound acquirements; and in common with the rest of our fellow-citizens, we deplore his loss as a public calamity.

Resolved, That as a mark of respect for the deceased, we will wear the usual badge of mourning for thirty days.

Resolved, That the Secretary of this meeting transmit to the nearest relatives of the deceased a copy of these Resolutions, and that Hamilton C. Jones, Esq., be appointed to present them to the Court now in session, with a request that they be copied into the minutes of the Court, and other papers of the Court.

Resolved, That the members of this Bar feel with deep sorrow, the irreparable loss which our country and the profession have sustained in the death of the Hon. Wm. Gaston, late an associate Judge of the Supreme Court of North Carolina.

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