

Ohio, and still later Robert Lucas moved westward to Iowa. Prospective troubles over the transfer of the Louisiana Purchase led to a call for troops in Ohio, and Lucas raised a company. During the trouble with England over the Chesapeake he was again active in raising militia and later took an active and important part in the War of 1812.

As a legislator and Governor of Ohio Lucas does not take rank as a statesman, but he seems to have fulfilled the needs of the situation in a creditable manner. There were no particularly difficult problems of statecraft to solve, hence no statesman was needed. As Governor he warmly advocated a free public school system, favored an efficient militia as a protection against foreign invasion and Indian outbreaks, urged the building of roads, bridges and canals, and later, when Governor of Iowa, added railroads to his list of necessary improvements.

"The disputes over the interior division lines of the country have sometimes developed into open conflicts. Here the local feelings rise to the highest pitch. With angry squatters shaking their fists at each other across the line that separates their claims, and two equally angry Governors, forgetting their dignity and challenging each other in responsive proclamations, the scene often presents a ludicrous as well as serious aspect." (227.) It was Governor Lucas' misfortune to become involved in two of these disputes, the first with Michigan while he was Governor of Ohio, the second with Missouri while he was Governor of Iowa Territory.

To enter into the many political campaigns in which Lucas took a part, or to attempt to sketch pioneer life in Ohio or Iowa in Robert Lucas' time would carry us too far afield. It is sufficient to say that it is well done in this volume.

Mr. Parish has made a diligent search for material bearing on Lucas' career and presents his story clearly and convincingly. Barring an occasional slip, the work is very well written. Abundant notes point to the authorities consulted, and there is a good index.

EDWARD McMAHON.

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**Samuel Freeman Miller.** By Charles Noble Gregory, A. M., LL. D. [Iowa Biographical Series, edited by Benjamin F. Shambaugh.] (Iowa City, the State Historical Society of Iowa, 1907, pp. IX. 217.)

The activities of a justice of the Supreme Court of the United States removed from the stirring activities of practical politics

and administration do not furnish a great abundance of material for a popular biography. Judge Miller served twenty-eight years on the supreme bench, and, aside from his judicial decisions, has left little material upon which to base a biographical sketch. In all he wrote seven hundred eighty-three opinions, of which one hundred forty-seven deal with constitutional questions, but Dean Gregory has not attempted to set forth an exhaustive estimate of them.

Judge Miller's father was a farmer of German ancestry who emigrated from Pennsylvania to Kentucky, where Judge Miller was born in 1816. Young Miller graduated from Transylvania University and began the practice of medicine in his native State. Life as a country doctor afforded him little satisfaction and he soon began secretly to study the law books of a friend whose office he shared, and in 1847 was admitted to the bar. Immediately he began an active participation in political affairs. He was strongly opposed to slavery and allied himself to the Whig party as a follower and lieutenant of Cassius M. Clay. In the struggle to amend the Kentucky constitution so as to do away with slavery, Miller took a leading part, and when that movement failed he moved with his slaves to Iowa, where he set them free. In Iowa he rose rapidly to a prominent place at the local bar, and continued his political activities as a Whig until the birth of the Republican party, of which he became a local leader. In 1862 Lincoln appointed him justice of the Supreme Court, and he held the distinction of being the first justice of the Supreme Court appointed from the States west of the Mississippi river.

It is to be regretted that the plan of the series has not been set aside in the case of Judge Miller to allow a more exhaustive characterization of his judicial opinions. Dean Gregory was apparently competent to do this for us, and the value of the book would have been increased manyfold thereby. As it is, we find a very brief chapter on Judge Miller as an associate justice. Miller's part in interpreting the constitution during the Rebellion and Reconstruction is estimated by Dean Gregory as second only to that of John Marshall in an earlier period. He writes: "Without the rank or distinction which belongs to the Chief Justiceship, the controlling mind in the solution of the momentous questions of constitutional construction during the Rebellion and the period of Reconstruction, involving the scope and meaning of the great amendments, was Samuel Freeman Miller, of Iowa. \* \* \*'" (2).

Perhaps the most widely known decision of Judge Miller is that rendered in the case, *Loan Association v. Topeka*, 20 Wallace 655, in which he used this language: "To lay with one hand the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprise and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms. Nor is it taxation. \* \* \* Taxes are burdens or charges imposed by the legislature upon persons or property to raise money for public purposes" (24). Judge Miller, it will be remembered, was one of the members of the electoral commission selected to untangle the Hayes-Tilden election difficulty. Of his acts in this connection Dean Gregory says: "From the first, Justice Miller, as was inevitable from the type of his mind, took an active and imperious part with the Republican majority, pressing for expedition and exclusion of testimony and acting throughout with the eight commissioners who outvoted the seven. It need not be alluded to as a judicial service, but it was a political service for which his undoubting and resolute disposition especially fitted him" (32).

On the personal side the book leaves us to form our estimate mainly from extracts of eulogies delivered by judges and members of the bar, and it seems unnecessary to insist that eulogies, especially of intimate associates, are of doubtful value in forming estimates of character. Here and there phrases and sentences seem to warn us that another side of the eminent judge has not been fully revealed. We are told that Judge Miller's interpretations of counsel "were apt to be pertinent and sometimes disastrous to the speaker, carrying the assurance that the court 'was not with him and never would be'" (59); that "the scant ceremony with which he dealt with tediousness or delay left many wounds among the bar of his circuit" (59); that a young lawyer who had submitted a motion "met with the usual humiliating treatment" (60); and, finally, we are told the story of the young lawyer who expressed his views of the judge's methods by saying: "I'm going up to be stamped all over by that damned old hippopotamus" (60). These little hints leave us unsatisfied, and we long to see the judge as he was seen through the eyes of the members of his bar.

Four appendices make up one hundred forty-three pages of the book. Three of these are addresses delivered by Judge

Miller, and the fourth is a complete calendar of his opinions. The first address, on "The Formation of the Constitution," and the second, on "The Value of Authorities," are good pieces of work. The third address, "Socialism and Society," is of no value except as it throws light on the working of Judge Miller's mind. Socialists, anarchists, nihilists, communists and single-taxers are grouped together and their declared object "avowedly in some cases, in most of them apparently, is the destruction of organized society" (154). Their doctrines, declared the eminent jurist, imply that the man who has made a fortune is a robber and an oppressor of the poor "because he does not divide these things equally among all his neighbors, among his enemies and his friends alike, among the good as well as the evil, among the industrious and the lazy, and among the criminal and the pious" (157).

The books are well indexed and carefully edited, and the State Historical Society of Iowa is to be commended for beginning the series and setting a worthy example for the other State Historical Societies. We need more biographies of the men who lived their lives and played their part in the affairs of our States.

EDWARD McMAHON.

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**The Great Plains; the Romance of Western American Exploration, Warfare, and Settlement, 1527-1870.** By Randall Parrish. (Chicago, A. C. McClurg & Co., 1907. \$1.75.)

The task which Mr. Parrish sets for himself in his latest book is nothing less than to condense within the limits of a single volume the romantic history of "The Great Plains." Geographically, his subject covers that vast area of the United States extending from the Mississippi river to the Rocky mountains and from Texas to North Dakota; chronologically, it subtends the period from 1527 to 1870.

To successfully outline, even in briefest form, the history of this broad field and period, to trace from cause to effect the various movements, and to give to each event its own proper niche and proportion, is assuredly no mean undertaking. Mr. Parrish does not attempt so much, but limits himself to writing what he terms "romantic history." He has not attempted a scholarly work, but frankly states the purpose of the book in the closing sentence of the preface: "It is written largely for those to whom history has been heretofore dry and unpalatable, and my sole