

**SKETCH OF THE LIFE AND  
JUDICIAL LABORS OF  
CHIEF-JUSTICE SHAW**

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Sketch of the Life and Judicial Labors of Chief-Justice Shaw by Benjamin F. Thomas

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**BENJAMIN F. THOMAS**

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"CHIEF-JUSTICE SHAW."

By BENJAMIN F. THOMAS.

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LEMUEL SHAW was born in Barnstable, Mass., on the 9th of January, 1781, within three months from the time when the Constitution and frame of government, under which his life was to be spent, and which his judicial labors were to illustrate, went into operation. His father and grandfather were clergymen. His grandfather, John Shaw, the minister of Bridgewater, educated four sons at Harvard College, all of whom became Congregational ministers. Of these, the Rev. Oakes Shaw, the father of Lemuel, was settled in the West Parish in Barnstable, in 1760, and continued in the pastorate till his death in 1807. That he was faithful to his people, and that they loved and honored him, this long connection would show; though we are not to forget, that pastors were not then settled on horseback, with a view to early removal, and that "Providence" did not then so often call rising young ministers from small rural parishes to opulent city ones.

The son always spoke of his father with the highest veneration and respect; never without emotion. At the centennial celebration at Barnstable in 1839, more than thirty years

after his father's death, he thus touched upon a subject always near to his heart :—

“ Almost within sight of the place where we are, still stands a modest spire, marking the spot where a beloved father stood to minister the holy word of truth and hope and salvation to a numerous, beloved, and attached people, for almost half a century. Pious, pure, simple-hearted, devoted to and beloved by his people, never shall I cease to venerate his memory, or to love those who knew and loved him. I speak in the presence of some who knew him, and of many more who, I doubt not, were taught to love and honor his memory, as one of the earliest lessons of their childhood.”

The mother of Mr. Shaw, was Susannah Hayward, of Braintree. She was the sister of Dr. Lemuel Hayward, an eminent physician of Boston, from whom her son was named. Mrs. Shaw was a woman of vigorous powers, mental and physical. She lived to see and enjoy the success and honors of her son; dying under his roof in 1836, at the extreme age of ninety-four. How much of our history is crowded into that life,—the “Seven Years' War;” the War of Separation and Independence; the struggle for national unity, for commercial freedom; the birth and maturing to manhood of a great nation!

Lemuel was fitted for college in part by his father, and partly at Braintree. In 1796, at the age of fifteen, he entered the Freshman Class at Cambridge. During the winter vacations of the last three years, to help pay the college bills and relieve his father, he kept a district school. In the way of discipline and preparation for active life, we doubt not those winter vacations were worth more than any part of the college course. Indeed, no man thoroughly understands New-England life and manners who has not kept a district school and “boarded round.”

The Class of 1800 had in it three, at least, marked men: Washington Allston, the painter-poet; the eloquent and saintly

Buckminster; and Lemuel Shaw. Other eminent men were President Bates, of Middlebury College; the Rev. Dr. Lowell; and Timothy Flint, whose letters from the valley of the Mississippi charmed everybody, forty years ago. Lemuel held a good rank in his class, and at commencement took part in a Greek dialogue with Timothy Flint.

Upon leaving College, Mr. Shaw was, for a year, usher in the Franklin, now Brimmer, School, in Boston. During the same year, he was a writer, or assistant editor, for the "Boston Gazette." The "Gazette" was an ardent supporter of the Federal party and politics. At this time the paper had several able contributors, — Robert Treat Paine, Jr., author of "Adams and Liberty," who wrote the dramatic articles and criticisms; Thomas O. Selfridge, soon to acquire so unhappy a distinction; David Everett, then at the bar, but afterwards first editor of the "Boston Patriot;" and, above all, Fisher Ames.

At the end of the year, Mr. Shaw commenced the study of the law with David Everett. Mr. Everett was a scholar and writer. He wrote Phi-Beta poems, dramas, essays political and literary; and on the fulfilment of the Prophecies, in which he assumes to prove, that the United States were distinctly alluded to by Daniel and St. John; and, more than all, he wrote the well-known poem, —

"You'd scarce expect one of my age  
To speak in public on the stage."

Mr. Everett removed from Boston to Amherst, N.H.; and his student, Mr. Shaw, went with him, and there completed his term of study. Mr. Everett, who had been at the bar but two or three years when Lemuel entered his office, seems to have devoted himself to the study of almost every thing but the law. He soon after left the profession for more congenial pursuits, though, we believe, not more successful.

With what diligence Mr. Shaw pursued his studies under Mr. Everett, we cannot affirm; but, either then or at a later



period, he must have studied the law as a science, carefully and thoroughly. He had that familiarity with and wide comprehension of the principles of the law, and that facility and ease in their application, which come from patient and systematic study, and are seldom or never the result of practice only, studying for the case, cramming for the emergency.

Mr. Shaw was admitted to the bar of New Hampshire in September, 1804, and, in the following October, at a term of the Supreme Court at Plymouth, as an attorney in this Commonwealth. So great have been the legal products of New Hampshire, and her contributions to the bar of Massachusetts (Webster, Mason, Fletcher, Parker), and so large our debt, that we cannot afford to give her any credit for Lemuel Shaw. He was but a pilgrim and sojourner in that cradleland of great lawyers.

The cases decided at the October term of Plymouth and Barnstable, 1804, are found in the first volume of the Massachusetts Reports. So that the professional life of Mr. Shaw begins with the system by which consistency, harmony, and symmetry were to be given to the then shapeless mass of our common law,—a work to which his labors were so largely to contribute.

Mr. Shaw settled in Boston. He had an office in the old State House with Thomas O. Selfridge. Whether there was a partnership, we do not understand. He testified at the trial, that he had an office with him. And that was his expression to the writer. After his trial and acquittal, Mr. Selfridge removed to New York, and the connection, if there was any, was dissolved.

Mr. Shaw did not find his way readily to large practice, or rise rapidly to distinction. But this was very far from being a misfortune. An early plunge into business would have made him a ready man; but time and opportunity for study, wisely improved, made him a full one. The qualities that readily attract business do not always secure and retain it.

If Mr. Shaw's progress was slow, every step was on solid ground. There was no slumping, no falling back. This was the secret of his success: if he had work to do, he did it as well and thoroughly as he could, and thus prepared himself to do the next better.

The first case in which his name appears in the reports is *Young v. Adams*, 6 Mass. 162 (1810). The amount involved was five dollars. The case was this: A note was payable in foreign bills. The promisor paid it, and the note was given up; but one of the bills given in payment was a counterfeit bill. The payee brought his action for the amount of the counterfeit note. Mr. Shaw put his defence on two grounds; first, that an action for money had and received would not lie; and, secondly,—the ground on which he principally relied,—that where there was no fraud and no express undertaking, and both the parties were equally innocent, no action would lie. The court, by Mr. Justice Sewall, said, "the two questions had been fully and ingeniously argued" by defendant's counsel, and, we hardly need to add, decided for the plaintiff. This was a small beginning; but perhaps the future Chief-Justice recalled the encouraging lines of Master Everett,—

"Large streams from little fountains flow;  
Tall oaks from little acorns grow."

Mr. Shaw gave himself faithfully to the study and work of his profession, but not to the entire exclusion of other studies. A man cannot be a great lawyer who is nothing else. Exclusive devotion to the study and practice of the law tends to acumen rather than breadth, to subtlety rather than strength. The air is thin among the apices of the law, as on the granite needles of the Alps. Men must find refreshment and strength in the quiet valleys at their feet. For the comprehensive grasp of principles, for the faculty of applying and illustrating them; for the power to reach just conclusions, and to lead other minds to them, breadth of culture is necessary. Some other things are to be studied beside the reports and text-books.

The Law is not "a jealous mistress;" she is a very sensible mistress. She expects you to keep regular hours; but an evening with the Muses or the Graces does not awake her ire. The mind requires not only diversity of discipline, but generosity of diet. It cannot grow to full, well-rounded proportions on any one aliment. Mr. Shaw understood this, and read and studied and observed much outside of Coke and Blackstone.

He did not, we think, keep up his intimacy with the Greek and Latin. He could not have written a Greek dialogue as well at fifty as at nineteen. But he was at home with the English classics, and a master of the English tongue. He liked the elder English novelists and satirists,—Swift, De Foe, Fielding, and Smollett.

He was a student and admirer of Hogarth, and used to call our attention to minute details of his pictures, showing the artist's nice touch and the student's careful eye.

He was a close observer of nature,—of the trees of the forest, and of the wild flowers and their haunts. He had a strong taste and love of mechanics and of the mechanic arts. A new machine was a delight to him, and after court he must go down to the machine shop or manufactory to see it in operation.

He took great interest in the affairs of the town, the then town of Boston; was fire warden, school committee-man, Fourth of July orator, and, for several years, one of the selectmen.

He had a strong interest in the affairs of the State; was for eight years a Representative from the town of Boston in the General Court; and for three or four years Senator from Suffolk.

He was an ardent Federalist, and a firm supporter of the Federal policy, State and National, from the beginning of the century to the dissolution of the party; and, what is to his credit, he never apologized for it, in public or private.