

(editor's note: This paper was transcribed from a handwritten cursive copy with various difficulties. For a perfect rendition, the reader might wish to consult the original, itself a copy, in the volume entitled *Literary Club Papers* 2, 1886 – 1887 June 5, '86 to May 21, '87)

The Hon. Noah H Swayne: late one of the Justices of the Supreme Court of the United States

The writer first made the acquaintance of Noah H. Swayne about the year 1840. The acquaintance ripened into friendship, and continued to the end of his life. He had been a member of note in the Ohio Legislature, had served as District Attorney of the United States, and was then a member of the Columbus bar. He was a Virginian by birth, and his wife, being also a Virginian, had helped him to cultivate the traditions of his native state. He had first made his residence in Coshocton County, and had his relations with the Democratic Party. His appointment to the office of District Attorney had been received from Andrew Jackson. It happened that his political career had then ended; but his party sympathies remained active, and he was consulted about party movements. He enjoyed the friendship of the leaders of his party down to the opening of the Civil War. In one sense he never lost it. He gave his influence for the nomination and election of Abraham Lincoln for president, and was one of the appreciable forces in breaking old party lines. He was appointed one of the Justices of the Supreme Court of the United States by Mr. Lincoln, in which office he served with high public appreciation until advanced years and the traditions of the Bench led him to an honored retirement.

He was probably about 40 years of age when the writer first knew him. His position at the Columbus bar was new. There was a number of eminent lawyers at the Bar, of more advanced reputation and of high abilities. The occasion on which the writer's recollection places his first knowledge of Mr. Swayne was in the trial of the noted criminal before a jury in the Circuit Court of the United States, then held in Columbus, Mr. Justice McLean presiding. The attendance was thronged. Swayne was for the defense. He was a man of large stature, symmetrical proportions, an agreeable voice, and handsome face. There was however and undefinable something which hinted to the writer – a stranger in that audience – that Mr. Swayne did not think he had gained the position at that Bar which would secure him favor, until he earned it.

The speech he delivered would have attracted favorable attention anywhere. There were many sonorous words and sentences: quotations not always the newest, and enough for nice criticism. But the tide of the speech rolled on, gathering effects as it advanced. An increasing earnestness and warmth filled the speaker and the house until at the close, there was probably not a person present who did not think the accused had been as well defended as he could be.

Mr. Swayne's advance in his profession would have been much more rapid in a larger city; but it was rapid in Columbus. His practice became the most successful one there, and one of the most successful in the highest courts of the state. His fondness for sonorous and rhythmical language never left him. But his vocabulary was enlarged and enriched, and chastened almost to austerity. Among other studies in language, he acquired unusual art in statements of logical sequence. His statement of propositions either orally or in writing were attractive to courts and

juries, and very dangerous to opponents. He was extremely valuable as a counselor outside of court. His brain was large, his habits sympathetic. He took delight in finding a safe way through legal intricacies. Whoever reads his opinions delivered from the bench of the Supreme Court of the United States, will find the language carefully chosen, and almost always well-condensed. All in all, he was a man who would be esteemed of great value in the highest ranks of any country.

After leaving the Bench, he derived great pleasure from a visit to Europe, some of the incidents of which he related to the writer shortly before his death. The limits of this sketch forbid more than an allusion. Appearances of health had left him. Nothing was said of the danger which I think he felt to be near. We separated as if to meet again in life, as we had for many years; but an expression on his face plainly told me it was to be our last interview.

Not far from the beginning of his career at the Columbus Bar there was much tendency to buy lands in the Maumee Country on speculation; that is, in the neighborhood of Toledo and Maumee. Mr. Swayne, whose property interests were then substantial engaged in joint operation with a number of other prominent men in that line of operation. He endorsed their notes, and lost all he had. He has since told the writer he was considerably worse off than a man without property if free from debt. He managed to collect a good working law library, quit politics, and settled down to genuine study and practice of law. He prepared his cases with care and sagacity. His skill and power as an advocate were exceptional. His fondness for flowing language, and his growing skill in oratorical effects assured him both clients and audiences. Thomas Ewing and Henry Stanberry did not lose their leading position at the bar, but my impression is that before he went on the Bench, Mr. Swayne had more and larger cases than either of them, – perhaps more than both.

It is probable that if his land speculation had been successful he would have cultivated a political career. In view of the known ability and character of the leaders of the Democratic Party in his time, it is not saying too much to say that he had no superior in that party in the state of Ohio, if indeed he had elsewhere. He seemed to combine many elements of political success. But if his speculation had been successful, he probably would not have been a great lawyer nor a judge of the Supreme Court of the US. The story, however, comes out like a novel. By his practice of law, he was able to keep a part of the land purchased, and pay taxes on it. The rise in value which had been expected to be immediate, did in fact happen after a lapse of 30 years, and made him rich. As far back as 1870 the Toledo purchase was estimated at half million of dollars.

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Budget
Kemper, editor
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