"Liberty," declared Senator George Turner, speaking, in 1900, on behalf of the Filipinos, "knows no clime, no color, no race, no creed . . . The best of all governments is a tyranny if imposed on the governed without their consent." It was no accident that Turner's ablest and noblest efforts on the floor of the United States Senate were in the interest of a subject people, for the battle for justice, at whatever points the lines happened to be breaking or threatened, was the most absorbing drama of his career. A statesman and a lawyer of a generation that has passed, he loved any fight; but it was with stern joy and unflinching courage that he hurled his deadliest shafts at the forces of injustice or oppression. A Federal marshal in Alabama (1876-1880), Judge of the Supreme Court of the Territory of Washington (1884-1888), member of the Washington constitutional convention (1889), United States Senator (1897-1903), member of the Alaska Boundary Commission (1903), of leading counsel for the United States in the North Atlantic Fisheries Arbitration (1910), and for nearly fifty years a leader of the bar in the State of Washington, Turner presents a career which merits review. Self-educated, distinguished in appearance, courtly in bearing, courageous in action, unyielding on essential points of honor and justice, he presents a character worthy of analysis.

George Turner was born in Edina, Knox County, Missouri, on February 26, 1850. His parents were hard-working, God-fearing, frontier people of good stock, without much, if any, formal education, and without the means to educate their nine children. Poverty and the Civil War put an end to George Turner's formal "education," which consisted of attendance at a one-room school for periods aggregating about eight months. His learning he acquired later by reading and by association with men older and better informed than he. Still a child in years, he served as messenger boy in the Union forces until at odd times, he learned telegraphy, when he became a member of the Military Telegraph Corps, in which capacity he served at various points in his state. In "rough and tumble" Missouri he was forced to early maturity.


state which before the Civil War had more than its quota of ruffians, and during that war heard much tramping of soldiers and was often in fear of renegade desperados and stealthy guerrillas, was a state of many suspicions and not a little treachery, of quick tempers and fairly accurate shooting. It did not nurture the smaller or gentler virtues, but it furnished the nourishment from which bad men were made worse and men of character were made stronger. If it could produce a Jesse James, it could also fashion a George Turner.

Self-reliant and mature at sixteen or seventeen, George joined his brother, ten years his senior, Col. W. W. B. Turner, in Mobile, Alabama. He read law under his brother's direction, and, in 1869, at the age of nineteen, he was admitted to the bar. In one of his earliest cases he had a particularly unpleasant experience with a judge. There are several versions of the story, but it seems that the facts were substantially as follows: Turner had unsuccessfully defended a Negro. When Turner appealed, the judge refused to certify the bill of exceptions which Turner presented, unless certain changes were made, changes which the young attorney maintained would not be in accord with the facts. Upon Turner's refusal to make the alterations, the judge sentenced him to jail for contempt of court. His elder brother thought that the matter had gone far enough and he suggested to George that he (George) write an apology to the judge. George smiled, wrote a note, and gave it to his brother for delivery. It developed that the note was not one of apology, but, on the contrary, one in which the indignant George had taken the opportunity to give the judge further instruction on judicial standards. This incident was related by one of Turner's old associates as typical of the man—always sensitive to an injustice, whether to himself or another, prompt to proclaim his indignation, and ready to take the consequences.8

Nothing was more natural than that Turner, for all practical purposes a veteran of the Civil War, energetic and ambitious, and not too busy with clients, should enter Republican Reconstruction politics. He rose rapidly in party councils, and in 1874 he was nominated for attorney general of Alabama. He failed of election because Reconstruction was at an end in Alabama and the Democrats were returning to power, but he continued to be the right hand man of George E. Spencer, Alabama's carpet-bag United States Senator, and when that individual was displaced by a Democrat in 1877, Turner became the Republican leader in the state. As such he distributed the Federal patronage and headed the state's delegates (mostly Negroes) at Republican national conventions. He was a loyal follower of the Grant-Conkling-Arthur faction of the party, and Grant named him (1876) United States marshal for the middle and southern districts of Alabama and Arthur appointed him (1884) Justice of the Supreme Court of the Territory of Washing-

8F. T. Post, interview, Spokane, Washington, April 4, 1940.
What could be expected of a judge whose background was Republican carpet-bag politics? It is true that Turner was not a carpet-bagger, for he had gone to Alabama several years before he was old enough to vote and he did not become a power in Republican politics until Alabama had been "redeemed" by the Democrats, but it is a fact that as a young party worker he had industriously and cheerfully "carried the carpet-bag" for Senator Spencer. Certainly the inhabitants of Washington Territory did not expect much from this political appointee, but they were most agreeably surprised. Judge Turner displayed from the very first the capacity for work, the understanding of the law, and the breadth of tolerance which characterize the ideal judge. Judge James T. Ronald of the Superior Court of King County characterizes Judge Turner as fearless, able, frank, and courteous. Mr. John P. Hartman, a Seattle attorney, who knew Judge Turner fifty years ago, writes that Turner distinguished himself as judge, contributing to the development of the law in the Territory and leaving a permanent influence upon the legal institutions of the State. Studious and careful as a legal craftsman, he spared no pains in writing his decisions. Mr. Hartman recalls that his style was fascinating, his composition clear, his English choice and pure.

Perhaps one of the most significant contributions of Judge Turner was his decision in Harland v. Territory, which stopped the legislative practice of amending the Code by reference to sections thereof. The Organic Act of the Territory provided that "every law shall embrace but one subject, and that shall be expressed in its title." In 1883 the legislature had amended section 3050 of the Code of 1881, and had thereby extended the suffrage to women. The title of the act amending the Code read as follows: "An act to amend section 3050, chapter 238, of the Code of Washington Territory." Does this title, Judge Turner asked, meet the requirement of the Organic Act that the object be expressed in the title of an act? His answer was that it did not. "The object of the act in question was to confer the elective franchise on females," he explained, and the statement of that object is not found in the words "to amend section 3050" of the Code. He gave at length, and not without some humor, the most practical and convincing reasons for adhering to the technical requirements of the Organic Act. Judge Langford concurred with Judge Turner, the two constituting a majority of the court. Chief Justice Greene "totally" dissented, stating that he would in due time prepare his opinion. He never did. Judge Hoyt was disqualified from sitting, since the case had been originally tried in his district court. There is not the slightest doubt, however, that

4 Judge James T. Ronald, interview, Seattle, Washington, August, 1940.
5 John P. Hartman, in an article on Turner prepared for the writer in February, 1940.
6 3 WASH. T. R. 131 (1887).
Judge Hoyt was in “total” accord with the dissenting opinion of the Chief Justice, for three years earlier, in *Rosencrans v. Territory*, Judge Hoyt had written the majority opinion which was directly contrary to that of the now prevailing opinion. In the *Rosencrans* case Judge Turner had dissented. Thus the supreme court of the Territory had twice divided on the validity of amendment by reference to sections of the Code, in the *Rosencrans* case the majority sustaining and in the *Harland* case denying the validity of such procedure. The controversy could not be regarded as settled. How would it end?

Judge Turner resigned from the bench shortly after the *Harland* case was decided. The next year brought statehood and, of course, the end of the territorial supreme court. The people of the State elected the judges of the new supreme court, and one of the judges so chosen was Judge Hoyt. In December, 1891, the case of *Marston v. Humes* came before this court. The decision in this case might be said to have been reached without disturbing Judge Turner’s reasoning in *Harland v. Territory*. Indeed, the Court held that the title which read, “An act relating to pleadings in civil cases”—the title in question in the *Marston* case—was sufficient to indicate the subject of the legislation, and thus, by inference, sufficient to satisfy the rule of interpretation Judge Turner had laid down in the *Harland* case. But Judge Hoyt, who wrote the *Marston* opinion, could not resist the opportunity to reply to Judge Turner’s reasoning in the *Harland* case. Judge Hoyt’s reasoning, in all probability only *obiter*, has led some authorities to say that *Marston v. Humes* overruled *Harland v. Territory*. That view is of dubious validity. Its probable error is not only shown in the language quoted above from the *Marston* opinion but also from a reference to that case in *State v. Halbert*, where the court states: “We were unanimously of the opinion that, under the constitution, the title was sufficiently expressive of the object of the act.” In any event, the question of the validity of a Code amendment by reference to section thereof being again raised in the case of *State v. Halbert* (March 21, 1896), the majority of the court followed Judge Turner’s *Harland* decision, leaving Judge Hoyt only what comfort he could gain by having Judge Dunbar associated with him in dissent. Six years later (April 15, 1902), the court unanimously followed Judge Turner’s decision, the decision that an act which simply refers in its title to sections of a code to be amended is invalid; that to be valid it must clearly state in its title the “subject” to which it refers. Judge Hadley, who spoke for the court, quoted with approval Judge Deady in the case of *The Borrowdale* (39 Fed. 376). Citing *Harland v. Territory* and referring to

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7 2 Wash. T. R. 267 (1884).
8 3 Wash 267 (1891).
9 14 Wash. 306 (1896).
the ruling in that case that the subject must be expressed in the title of the act, Judge Deady had said: "The question is thoroughly considered in the opinion of the court, and the conclusion maintained by argument and authority which are unanswerable."11

With the inauguration of President Cleveland, in 1885, the Democrats of Alabama made prompt efforts to have Turner removed from his judicial office in Washington Territory. It is a credit both to the Cleveland Administration and to Judge Turner that the effort at removal was unsuccessful. There were a few persons in the Territory who claimed that Turner was unfit for judicial office, but they were decidedly in the minority. Of the representations made on behalf of Turner to the new Administration at Washington perhaps that of the Bar Association of Spokane County was the most significant. This body adopted a resolution commending Judge Turner for his ability, impartially, courtesy, and industry, emphasizing that his fine qualities were even better displayed as a member of the supreme court of the Territory than as a trial judge, vouching for his integrity as judge and private citizen, and earnestly recommending that he be retained in office for the term for which he was appointed.12 The resolution was signed by six Republican and six Democratic attorneys of Spokane, and by thirty attorneys, about two-thirds of whom were Republicans, in other towns of the Fourth Judicial District. It would be superfluous to comment upon this and similar testimonials further than to say that they prove a remarkable fact, namely, that a Republican Reconstruction politician, a machine lieutenant, having received for political service performed a judicial appointment, had the mental capacity, the tireless energy, and the moral fiber to meet the exacting requirements of judicial office.

In 1888, several months before his term of office expired, Judge Turner resigned, giving as his reason his desire to practice law and remaining silent on another reason—his interest in elective public office. In 1889 he was chosen by a large majority as a delegate to the convention which would write the constitution with which the Territory would seek statehood. He was made chairman of the committee on the judiciary, and the judiciary article as it now stands in the Washington Constitution is largely his work. He served conspicuously on the committee on tidewater and navigable streams, and he was active in nearly every other phase of the convention's work. An observer reported that "the keen, incisive talker of the convention, the only one, perhaps, who can win votes over to his side by a logical presentation of his case, is Judge Turner of Spokane. Nearly all the members recognize this fact without distinction of party."13

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11 Quoted ibid., p. 327.
12 Resolution of the Bar Association of Spokane County, held at the City of Spokane Falls, August 13, 1885 (photostat). The National Archives, Washington, D. C.
13 Unidentified newspaper clipping. State College of Washington collection of Turner papers.
Turner led in the bitterest fight of the convention, the battle which occurred over the efforts of the railroads to win a constitutional provision which would give them a chance to acquire the tidewater lands. It should be stated that several of Turner's judicial decisions had run counter to the interests of the railroads, and they strongly suspected that he was a man who might oppose them in other matters. At the convention it soon became evident that Turner was the delegate who must be turned aside if the railroads were to achieve their purpose. While the debate on the tidewater lands was in progress, a disastrous fire swept through a large section of Spokane destroying, among other buildings, the one in which the Judge maintained his office. Railroad lobbyists told Turner that this misfortune was ample excuse for his leaving the convention; that he should go home to look after his affairs, and run for the United States Senate the next year—on a fund of $25,000 which the railroad would raise for his election expenses. The exact response of the Judge, who did have senatorial ambitions, is known to but a few friends. In 1930, looking back over the years and in a mellow mood, the Judge lied that he just laughed. The nearest approach to what he said which may be reduced to writing is: “If I did not know that you have no sense and do not realize what you are trying to do, I would throw you out of my office.” The reply that his friends declare he actually made does him no less credit as a man of honor and merits a barbed-wire corsage for mastery of scathing invective. It was—well, it was brief, direct, adequate, just, forgivably profane, and legally unprintable. He remained in Olympia. The constitution as framed and adopted asserted the State's "ownership to the beds and shores of all navigable waters," and excepted from the provision validating the laws of the Territory then in force "any act of the Legislature of Washington Territory granting shore or tide lands to any person, company or any municipal or private corporation."

From 1888 to 1897 Turner was profitably engaged in the practice of law and he had the good luck to invest in a mining property which paid handsome dividends. His interest in politics remained, and he made several attempts to win a seat in the United States Senate. He had strong support but still stronger opposition, that of the railroads, the dominant influence in the Republican state organization. An incident in the bitter senatorial fight of 1893 is worth recording because it indicates something of the methods employed in senatorial elections in those days and illustrates a quality in the character of Turner. The Judge had paid the election expenses of a member of the legislature who was pledged to support him for the United States Senate. After voting once or twice for his patron, the member deserted him, giving as his reason the impossibility of electing Turner. Sweet vengeance was slow.

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14 Spokane Chronicle, April 9, 1930.
15 Art. XVII, sec. 1.
16 Art. XXVII, sec. 2.
in coming, but Turner was determined to have it. About the time Turner was elected to the Senate (1897), the legislator who had broken his pledge to Turner received a Federal appointment from the hands of Turner's political opponents and he was still holding the office when, toward the end of Turner's term as Senator, Theodore Roosevelt became President. On the best of terms with the "square deal" President, Turner asked him to remove the "traitor" from the Federal payroll. It was done. "I got him at last," Turner reported gleefully to a friend. "Well," commented the friend, "I am rather sorry that you did. On our old coat of arms is the inscription 'Eagles do not fight with mice.' " "That might satisfy you," replied the unforgiving Senator, "but I had to get that _______.

Turner went to the Senate on the free silver movement. Spokane was the capital of "16 to 1" in the Pacific Northwest, and Turner was one of silver's leading advocates. Neither he nor his close associates were particularly interested in the monetary theories back of the free silver crusade, but they were interested in silver mine properties and in the prosperity the mines were bringing and could bring to Spokane. Furthermore, Turner's unfriendly attitude towards railroads and other large business combinations had placed him in a position where he could expect nothing from the Republican party. Consequently, he became a Silver Republican (about 1900 he became a Democrat) and led the Washington branch of that group into an alliance with the Populists and Democrats. In 1896 this combination easily carried the state for Bryan, the Democratic nominee for President, and for John R. Rogers, a Populist whom the "allies" had named for governor. When the legislature convened in January, Turner was chosen Senator, although not without some initial threats by the Populists to elect one of their own party or the danger of a Republican alliance with a faction of the Populists to defeat Turner.

Senator Turner wore the toga as if it had been made for him. He had found the ideal place for the exercise of his interests and the display of his talents. He respected and won the respect of his able colleagues. At the time he went to the Senate he had a positive dislike for Senator Hoar of Massachusetts. Soon he looked upon him as one of the finest and best equipped of all the Solons. From first to last he had the confidence of and was on intimate terms with Teller of Colorado, Daniels of Virginia, and other leading senators of the minority party. Despite a few prickly thorns he sometimes included in the bouquets he discriminately handed Lodge and Beveridge, he was always on good terms with them. An individual who was not a Senator and who never had been one but who had been elected to preside over the Senate had his eyes on Turner. That individual was, of course, Theodore Roosevelt, President after the assassination of McKinley. Doubt-

17 Frank H. Graves, interview, Spokane, Washington, December 27, 1939.
less Roosevelt was impressed with Turner's character and worth, and
the President testified that "Anything relating to our international
relations . . . I was certain to discuss with Senator Lodge and also
with certain other members of Congress, such as Senator Turner of
Washington and Representative Hitt of Illinois." Of Roosevelt Tur-
ner said: He "treated me with marked courtesy, and evinced toward
me a very friendly spirit, which naturally begat on my part a like
spirit . . . I came to have for him a great admiration. As a man, while
tolerant of lapses in others, his standards of conduct were high. As a
friend, he was all that a friend could be."

Turner was of that class of senators who give distinction to the
Chamber, not of the type whose career in the Senate brings nothing
beyond a little prestige for themselves. He served the United States
rather than the State of Washington. He was, as all good senators have
been and are, a national representative. Although he came from one of
the newest states, he seldom mentioned that state or its particular
interests. His great efforts were saved for national issues and problems.
He opposed the Gold Standard Act, favored an Isthmian Canal, al-
though he opposed the Panama route, and time and time again made
exalted appeals for liberty and justice for the Filipinos. Often, as in the
last case mentioned, he was found on the side of those who most needed
a champion. He was for the rights of the bona fide homesteaders and
miners as against the pretentious and sometimes questionable claims of
large concerns; he was for fair treatment of labor, yet he was in no
sense a defender of labor violence in industrial disputes. He opposed
monopolies and subsidies, and, although he could not rid himself enti-
ately of his old Republican faith in the protective tariff, he voted
against the Dingley tariff bill because it went too far in subsidizing
manufacturers and not far enough in protecting western products.

Courage, independence, and integrity characterized his career in the
Senate. Considerable pride was present also. He was far from indif-
ferent to his political future, but he would not sacrifice his principles
to insure it. There is no doubt that he could have made his peace
with the Republicans in 1900 or even later, but there is no evidence
that he ever thought of returning to that party. In 1902 economic pros-
perity restored the Republicans to full power in the State of Washing-
ton, and the legislature of 1903 elected a "safe and sane" Republican
to succeed Turner.

Senator Turner tried several times to return to public office, but he
never succeeded. In 1904 he ran for governor. Vigorously advocating
a state railroad commission, he had the support of all Democrats and
many Republicans, and ran about 15,000 votes ahead of his ticket, but
he was still approximately that number of votes behind Albert A. Mead,

\textsuperscript{18} AUTOBIOGRAPHY, pp. 383-384.

\textsuperscript{19} Turner to F. S. Wood, August 31, 1925.
the Republican candidate. As Democratic hopes brightened after 1909, Turner became a very active backer of Champ Clark for the presidency. One of the leaders for the Missourian in the Baltimore convention (1912), he stayed with him to the end. This was typical of Turner, this loyalty to a candidate to whom he had pledged his support. The Judge actively supported Wilson after the nomination, but the fact that the Judge had backed a losing candidate for the nomination impaired his influence in the Democratic party.

In 1914 Turner failed by a small margin to win the Democratic nomination for United States Senator. Two years later he was successful, and faced Senator Miles Poindexter, the Republican candidate for reelection. Poindexter had been a Progressive, had supported a number of the liberal measures of the Wilson administration, and now again a Republican he appealed to Progressives to follow him and Theodore Roosevelt back to the party of Lincoln. Turner also claimed to be a Progressive, to be a supporter of Wilson "because he is standing in government for what I have stood for for the last twenty years. I consider him a statesman of high ideals and remarkable constructive ability, and if elected to the Senate I expect to support him loyally in all the constructive policies advocated by him . . . But much as I admire him I will not be his echo or that of any other man. I shall be an American senator and speak for the people of Washington as my conscience shall dictate." These are the words of a statesman, essentially the same as those of Burke to the electors of Bristol.

On specific issues of governmental policy—railroad regulation, trusts, postal savings, freedom of the Philippines, and a few other matters—the Judge was entitled by any fair test to wear the progressive label. On the issue of popular control of government through such devices as the initiative, the referendum, and the recall and on the issue of woman suffrage he could claim to be a progressive only as an eleventh-hour convert, never convincing evidence of repentance. As these mechanisms of popular government were almost invariably included in the progressive program, it is easy to understand why the Judge could not satisfy the more liberal of the political reformers. The Judge was a firm believer in undiluted representative government; he did not entertain the conviction that the people could make their own laws and he was certain that they were incapable of passing upon the work of the courts through the medium of the recall of judges or of judicial decisions. Furthermore, Turner was never a good campaigner. There was too much of the lawyer and judge in him. On the stump he was somewhat ponderous and a bit monotonous. He made few gestures and those he made were sometimes awkward. If he tried (and he seldom did) to be less formal in his speeches, he was likely to give the impression of talking down to the sovereign voter. He was no back-

20 Letter to Spokesman-Review, April 19, 1914.
slapper, no glad-hander, no first name caller. The children, the old folks, the pioneers interested him as much as they did most other candidates for public office, but he could not make sentimental references to them. As for Poindexter, it was not necessary for him to prove that he was a progressive. His record took care of that. He was not on the defensive. Nor had Poindexter's experience as lawyer and judge "cramped his style" on the hustings. He was more in tune with the times than Turner both on the issues of the day and in campaign methods. Although Wilson carried the state by a small margin, Turner lost it to Poindexter by a large majority (135,339 to 202,287). Now sixty-six years of age, Turner was through with running for public office.

There is an element of tragedy in Turner's failure to remain in or return to the Senate. Able, learned, persuasive, and eloquent on the great issues which were debated in that body, he had found in his one term of service deep pleasure and satisfaction. In the presence of these opportunities he was happiest and at his best. His failure to be returned to the Senate in 1914 or 1916 may be explained by the suggestion that politically he was a misfit in the progressive era. Never flexible nor adaptable, he was not at home with the new liberalism, the popular government movements of 1909-1916. He was rather an old liberal of the best Whig tradition. As such, he believed more in government for the people than in government by the people. It is only fair that a man should be judged by the beliefs, customs, and standards of the time in which he achieved his greatest success. Applying this test to Senator Turner, he is revealed as a fairly successful politician under the old caucus-convention system, an office-holder who never failed in a public trust, and, in his representative capacity as Senator, one of whose statesmanship any commonwealth could be proud.

Significant as were Turner's public services as judge, constitution maker, senator, and citizen, he was a lawyer rather than a politician. In nearly fifty years of residence in the state, he held office for less than ten. His clear thinking, his facility in analyzing and presenting intricate problems, orally or in writing, his passion for justice, his courage, his combative qualities made him an uncompromising statesman and a fighting lawyer; and since to continue as a statesman one must, unless most fortunately situated, be a politician, Turner spent the greater part of his life as an attorney at law. The law was his first love, his absorbing interest, and he won distinction as one of the ablest lawyers of the Pacific Northwest.

Turner was at various times asked by the National Government to place his legal talents at its disposal in international controversies to which it was a party. In 1903, just as his term in the Senate was expiring, he and Elihu Root and Henry Cabot Lodge were designated by President Roosevelt to serve as commissioners who should meet
with a like number of British commissioners to settle the Alaska-Canadian boundary dispute. In 1910 he served with Elihu Root, Samuel J. Elder, and Charles B. Warren as counsel for the United States in the North Atlantic Coast Fisheries Arbitration. This was an Anglo-American arbitration case heard and decided by the Permanent Court of Arbitration at the Hague. From 1911 to 1914 he was a member of the Canadian-American International Joint Commission and from 1918 to 1924 he was counsel for the United States before that Commission. The limits of space make impossible a review of his work as arbiter, commissioner, and counsel for the United States and for the same reason is precluded any discussion of the many leading cases in which he served as counsel for individuals and corporations. Discussion must be limited to the broader question, What kind of a lawyer was he?

"Turner was what we in the profession call a 'born' lawyer," writes Benjamin H. Kizer, who as a younger attorney in Spokane had many opportunities to observe the Judge in the role of advocate. "To such a man the basic principles of Anglo-Saxon jurisprudence come as naturally to his mind as do the lips of the babe to the mother's milk. The fundamental principles of the law have in them a natural justice, an inevitable symmetry and proportion, that appealed to Turner as harmonies appeal to the musician, or poetic rhythm to the poet, or the flowing lines of the statue to the sculptor, or the majestic construction of a cathedral to the architecturally minded. 'Born' lawyers with this intuitive perception of legal principles are rare in the law although each generation . . . has a few."

Judge Turner was never greatly interested in the law or the facts of an ordinary controversy; "he was left utterly cold by the arbitrary *ipsa dixit* of commercial law, the law of bills and notes," says Kiser. In the "run-of-the-mill" type of litigation he was probably less successful than attorneys of moderate ability because he was unable to find in it the opportunity for the exercise of his great talents. Another reason for the absence of any outstanding success in the common run of cases was that as a jury lawyer he was below par. He did make some good jury speeches, but usually he talked down to the jurors, thus failing to establish that "we-are-all-intelligent-men" relationship with them.

In cases involving important questions of constitutional or international law or some other fundamental legal principle Judge Turner would toil unceasingly and with infinite patience, finding in them a nourishment which satisfied some deep hunger in his soul. It was in these cases that his powers of mind were best exhibited. "Given such a cause," says Frank H. Graves, a professional associate and lifelong friend, "and given a court that would listen and could understand, he was well-nigh invincible . . . He had no patience with quibbles, with

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21 Benjamin H. Kizer, letter to the writer, March 12, 1941.
fine-drawn distinctions about either the law or the facts. A wide survey of the testimony established certain conclusions of fact. An appeal to a broad, fundamental principle of law applicable to the state of facts demanded a certain judgment. And the Judge, adding burning and persuasive eloquence to his legal learning, strove, almost irresistibly, to win that judgment.

Mr. Graves describes his preparation for a trial as "simple and direct, but thorough and painstaking. Having prepared his own theory of the case, he explored every possible other theory that might make against the one he had adopted. He expended frequently great ingenuity in forecasting what might be urged against him. Time and again I have seen him go into court most elaborately prepared to meet propositions which were not urged, and which counsel on the other side evidently had never thought of. He wrote out in his own hand every argument of law or of fact in full. And so accurate was his reasoning and so precise the English in which he put it that scarcely a change was afterwards made. And he had this very remarkable faculty: Without re-reading more than once what he had written he could reproduce it almost word for word in oral argument without referring to the manuscript; indeed, he seldom took that manuscript into court with him."

On legal principles he was inflexible in conviction and in method. Quoting again from Mr. Graves: "He would not argue any theory or any doctrine in which he did not believe. . . . When he and Senator Root were before The Hague Tribunal in the Newfoundland Fisheries arbitration case, they had become convinced the day before it came their turn to argue that they could not succeed upon the theory they had adopted and prepared. Thereupon, Mr. Root suggested a totally different theory, but not necessarily one antagonistic to the other. Judge Turner said to Mr. Root that he could not argue that theory for two reasons, first, he had prepared upon the other and he could not change upon such short notice, and, secondly, because the theory they had proceeded on was a sound one in his view and should be presented to the court. Thereupon, it was arranged that he should present that theory, and that Mr. Root should argue the other. Judge Turner always insisted to me that the case was won upon Senator Root's argument with no time given him to prepare it except the day and a half while he, Turner, was making his argument. He always referred to it as one of the finest instances of forensic skill and eloquence, almost extemporaneous. 'However,' he added, 'it was not sound and the other should have been the theory of the court.'"

Further evidence bearing upon the Judge's disinclination to argue for a theory is which he did not believe is furnished by B. S.
Grosscup, an attorney of Seattle. He discussed with Turner the question: Should a lawyer present a “cause based upon a legal proposition which he believed to be unsound?” Turner maintained that a lawyer should present his client’s case regardless of his own ideas of its merits, but then he asked: “Do you think that you could present to a court a proposition in which you did not believe as forcibly as someone else might present it if he fully believed in its soundness? By attempting to present it yourself, would you not deprive your client of the benefit of a presentation by some one who believed in the soundness of his argument?”

Judge Turner’s conception of law was conventional but interesting. Here again we are indebted to his good friend, Mr. Graves, who paraphrases the Judge: “Law, declared Judge Turner, was not something imposed by the sovereign upon the subject; it was a body of fundamental principles regulating man’s relations one to another. It was a matter of growth and not of ipse dixit. It changed as times and conditions changed, but it always followed the same broad and fundamental principles, reapplied, and reshaped, and readapted to the changed conditions. The principles never undertook to coerce the people into a method of thought or conduct greatly different from that which they had habitually followed. It furnished only an ultimate standard and fitted in precisely with the habits of thought and the habits of conduct prevailing in the community. Thus, it was that the great principles of Anglo-Saxon law had developed from the time of the Magna Charta. The principles do not alter; their application only had been changed, and hence it was that through all the centuries people of each succeeding generation were content with the law and content with the law’s administration.”

Turner’s conviction that common law principles were adequate to cover the relations of one man to another, did not in any sense impair his faith in written constitutions which control the activities of government and the relations of individuals to government. His objection to the Eighteenth Amendment was that it was a police regulation, a sump- tuary law, a despotic edict written into the Constitution where it had no place under Anglo-Saxon principles of jurisprudence. For the fundamental principles of the Constitution—those provisions which established the boundaries of authority between the nation and the states, created the separate branches of the national government, and vouch-safed to individuals their civil liberties—he had the greatest admiration. On these he was an authority in the courtroom and in the Senate Chamber. He grew to be more and more the constitutional lawyer, particularly after his period of service in the Senate. His views of the Constitution did not always harmonize with those of the Supreme Court.

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25 B. S. Grosscup, letter to Frank H. Graves, April 22, 1932.
26 Graves, “In Memoriam.”
of the United States, an experience which most constitutional lawyers have shared with him.

On occasion Judge Turner would express in open court his dissent from an opinion of the eminent Tribunal which makes our constitutional law. The situation was tense in the Circuit Court of Appeals in San Francisco when, as an octogenarian attorney, he had an exchange with Circuit Judge Wilbur relative to a decision of that Tribunal. The attorney was stating his case against the Eighteenth Amendment when Judge Wilbur interrupted: "Do you not know that the Supreme Court of the United States has sustained the validity of the Amendment and the laws enacted thereunder?"

"Yes, your honor," replied Turner, "but that does not change my views."

"You stop and sit down," ordered Judge Wilbur.

Raging within, calm without, Turner responded: "I will sit down when the court tells me to do so."

Judge Rudkin whispered to Judge James and then said: "You may proceed with your argument, Judge Turner."

As a lawyer Judge Turner was not an Elihu Root or a Charles Evans Hughes, but he was an advocate of distinction—"by far the greatest lawyer . . . on the Pacific Coast," wrote Judge C. R. Holcomb, expressing the opinion of many other judges and attorneys. Judge Ross, one of the ablest judges who have ever sat in the Circuit Court of Appeals of the Ninth District, once told Mr. Grosscup that he considered Turner "the most helpful advocate to the Court of any man who appeared before it."

Viewing Judge Turner's career as a whole, one must conclude that he was not a politician who practiced law at odd times, but a remarkably able lawyer who entered the field of politics at intervals. Certain traits of mind and character—intelligence, memory, literary style, an inflexible sense of honor, and love of justice—traits indispensable to the great lawyer, he had in full measure. Of the traits mentioned, his passion for justice was the most pronounced. Another trait, common in great lawyers of his day, the combative spirit, was a close second to his devotion to justice.

The underdog who found himself a victim of injustice could count on the help of the Judge, and the fee for such service was never more than incidental. His sense of justice went beyond the provisions of statutes; even contrary to some statutory enactments. He hated an unjust law no less than he was outraged by an injustice for which the law provided remedies. Any legal procedure which he regarded as highhanded or arbitrary called forth his eloquent denunciation. He would have agreed heartily with Federal District Judge Lowell of

21 Judge James M. Geraghty and Mr. Richard Nuzum, interview, Spokane, Washington, December 26, 1939.
22 Judge C. R. Holcomb to Frank H. Graves, March 19, 1932.
23 B. S. Grosscup to Graves, April 22, 1932.
Massachusetts concerning the wire-tapping activities of Federal agents. Said Judge Lowell: "Uncle Sam . . . becomes a sneaking cur. Just think of the shame of this thing. Worse, the pity of it."30

Benjamin H. Kizer remembers Judge Turner as a "warrior lawyer of a pioneer day who lived characteristically and intently in the search for justice through forensic combat," and he recalls his "consummate skill and driving power" in that combat. However fierce the legal battles may rage in our time there are more negotiations, more truces, more armistices than when Judge Turner was in his prime. The Judge belonged in the old camp of doughty legal knights. He was in the "great Roman tradition," says Kizer. "He was not merely a minister of justice; he was a soldier of justice ready always to fight for its ascendancy."31

(To Be Continued)

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30 Quoted in Time, May 7, 1933.
GEORGE TURNER, A CHARACTER FROM PLUTARCH

(Continued from November Issue)

CLAUDIUS O. JOHNSON

The Judge who for nearly fifty years was one of the leading citizens of the State of Washington always looked the part. He was about six feet tall and weighed approximately 175 pounds. His hair was very dark and abundant until late middle age, when it grayed and thinned, but it never entirely disappeared. His brown eyes often carried a merry twinkle when he greeted a friend or engaged in conversation, and when he was aroused to anger they might "look a hole through" the object of his wrath. The nose was fine, straight, and well proportioned. A conventional mustache partially concealed a mouth of moderate proportions. His jaws and chin were not pronounced, but rather gave a fine symmetry to his face and head. His shoulders were square and his carriage erect. He had long, narrow hands and fingers, and feet of the same mold.

Turner was always sartorially correct. What his position and the occasion called for, he wore, and the more formal the occasion the more imposing he looked. The Judge's Prince Albert coat and silk hat were familiar objects in Washington Territory. He continued their use until the Prince Albert became almost a vestment for the ministers of the evangelical Protestant denominations, when he turned to the conventional business suit. In this later period, unresentful of the alertness of ministers in matters sartorial which was now causing them to ease out of elegant Prince Alberts and into the more graceful cutaways, the Judge, for formal occasions, also donned the cutaways.

His even, well-proportioned features, his dark hair and eyes, his slightly swarthy complexion, his erect and dignified carriage, his well-tailored garments of statesmanship presented a handsome picture—a picture tastefully colored and tinted by the grace and ease with which he greeted an acquaintance, bowed to the ladies, or received a caller. In his office or conversing with friends he sat erectly with legs crossed—dignified, quiet, reserved but often smiling. He talked quietly in a smooth, resonant, mellow, pleasing voice. 32

Physically, Turner was almost indolent. 33 It was his habit to ride to his office. To look at a hoe made him tired; the thought of an axe made his back ache. He knew that Lincoln had once split rails, but he knew also that the Springfield lawyer neither chopped wood nor tended a garden after he became established in his profession. The Judge may have smilingly reflected that both he and Lincoln had "enjoyed" enough sport at manual labor when they were boys. If one of his favor-

32 Frank H. Graves, interview.
33 Ibid.
ite modern statesman, William E. Gladstone, wielded the axe at four score, that was his privilege, and it proved only that there was no set formula for physical well-being. On occasion the Judge played a round of golf, but he could not get interested enough in it to get mad at the ball. Living in a day when the great majority of Americans found their physical exercise in the course of their work and before the idea became prevalent that the professional man would just shrivel up and die if he did not bowl, roll, play ping pong, softball, handball, or golf, he pursued the even tenor of his way sleek and unsweated, a horrible example to later generations of what might not happen to a healthy, contented man who shuns the playgrounds, the gymnasium, and the showers. Blissfully ignorant of all the fun he was missing and of the degree to which his indolence should have been impairing his health and shortening his days, at eighty-one he had the physical, mental, and temperamental vigor to present one of his outstanding cases to a federal circuit court of appeals, to defy one of the judges, and to win the case for his clients. Exercise, no; recreation, yes. He might stroll along the street with a friend; he might walk in the garden with his dog; but he was more likely to take a seat, with the dog beside him, in a chair on the lawn. He loved to relax in conversation with a neighbor or friend. A cottage in the wilds of northern Idaho afforded him a delightful retreat in the summer. Occasionally he hunted or fished, usually in company with men of his own profession. He was in no sense a sportsman, being rather that type of individual who was more likely to embark on such an expedition with some misgivings that his companions might take seriously the announced purpose of their trip. He always found relaxation in playing cards, sometimes in the parlor game of bridge and sometimes in the smoke room game of poker. The latter was his favorite, although it was not a game in which he excelled. As a senator he did not supplement his income with winnings at poker, but he did supplement, rather substantially at times, the salaries of other senators. When in his last illness, he told an old friend of the reduced state of his capital and smilingly added that he could be comfortable enough for several years to come if he had his losses on one of his bad nights at poker.\footnote{Ibid.}

It is a fact that the Judge died in greatly reduced circumstances. Between the years 1890 and 1930 he probably made well over a million dollars from his law practice and two or three mining ventures. Where had it gone? Much of it he lost in speculation. He built a beautiful home at West 525 Seventh Street, Spokane, which was valued at approximately $100,000. This suggests his general standard of living. Money was something to spend for the pleasure of Mrs. Turner, him-
self, and his friends. He was often short of it, but as long as he had any, he parted with it freely and ungrudgingly. He would make loans to friends, the amount of the loan often being in more direct proportion to the degree of friendship than to the business acumen or financial responsibility of the borrower. Any down-and-outer with a plausible tale could approach him for a handout with every prospect of success. He was particularly vulnerable to the plaintive appeals of Negroes, the knowledge of which fact was as widely spread among them as the reputation for helpfulness on the part of a member of a dominant race is usually spread among the members of the beneficiary race. Once, as a colored man in a Prince Albert coat, possibly one of the Judge's castoffs, was leaving the office, the Judge told his secretary that the minister had visited him to collect his annual contribution to a colored church. “He has just named a boy after me, his tenth or twelfth,” added the benefactor, his face wreathed in a smile.35

Thus Judge Turner earned, spent, lost, and gave away his money, and by all accounts he enjoyed disposing of it in the “You Can't Take It With You” fashion.

A type of generosity which might not be considered highly desirable from the social standpoint is illustrated by his attitude toward certain individuals whose conduct was below ordinary civic standards. One of his employees was guilty of stealing small amounts of money from him. When it came to the attention of the Judge, he did not discharge the man but was content to warn him and blame himself for not having paid him a higher wage. A more interesting case was that of a burglar who confessed several jobs to his priest. Of course, the priest could not grant absolution until the wrong-doer had made restitution. The penitent, however, could not restore a $500 rug he had taken from the Turner residence. The priest went to the Judge and explained the situation, and the Judge, always impressed with the role of the Catholic Church in preserving law and order and with its practical and organized zeal in serving its communicants, assured the priest that he should be pleased to forget the rug.36

The general body of citizens who met the Judge and Senator on the street or who heard him address a court or a meeting had the impression that he was cool, perhaps haughty, and difficult to approach. His carriage, dignity, and reserve gave that impression. Cool and aloof he was to those who presumed upon an acquaintance or who treated him with less deference than he considered his due; but to those who showed proper respect for his rank and station he invariably displayed his more engaging qualities. An upstart who approached him

35 Miss Florence Coffeen (secretary to Turner for some years), interview, Spokane, December 26, 1940.
36 Judge Geraghty, interview.
in the free and easy manner would be "frozen out," but a Negro, hat in hand, would rejoice in the warmth of his smile.

The Judge was a man of honor in the sense in which that term was understood by the ancient statesman, the medieval grand seigneur and the ante-bellum planter-politician of the South. He was truthful, not because it is a moral wrong to tell a lie, but because gentlemen did not lie. He fought for justice, not because it was the righteous course, but because it was an obligation of men in his station. He refused bribes with indignation, not because it would have been a sin for him to take the money, but because the offer was a gross offense to his honor. He was quick to anger and as unforgiving as an Indian. Yet he could be magnanimous with an enemy who himself was a man of honor, who understood the code of the grand seigneur, but if the offender wore not the sword of honor, if he were simply a kitchen scullion, our grand seigneur could not follow the example of some of his class and ignore the offender, but he must slit his throat. In short, Turner was by nature a cavalier; the Puritan conscience, the Puritan conception of morals and goodness, he despised as the code of a class of men who were less than fit to inherit the earth.

Evidences of his chivalrous qualities are numerous. In 1898 Senator Turner spoke magnanimously of Confederate General James Longstreet, defending him against charges made against his military and political record. Mrs. Longstreet wrote Senator Turner: "The brave men who made the history of the 'sixties have long since buried the bitterness of those sad and heroic days. . . . Your broad Americanism is the golden link between the old and new glory." [1898]

At the expiration of his term in the Senate, he received a letter from E. F. Ware, the Commissioner of Pensions (a Republican, of course), expressing his pleasure at having been associated with such a considerate and courteous gentleman and the hope that he would soon return to the Senate, even if it did mean the displacement of a Republican. "I admit," he wrote, "that it is difficult to melt away the votes of 25,000 Republicans, but I saw an 88,000 Republican majority in Kansas dissolve in a few weeks." [1903]

The best testimony respecting his finer qualities of heart came from Japan, from Mrs. Betty G. Pierce, the daughter of Judge J. Z. Moore. "I want to thank you," she wrote, "for your noble tribute to my father. It was so eloquent with the insight of a sympathetic nature and the understanding of a great heart that it touched me very deeply. . . . Many times have I heard him express his admiration of your talents and ability, but best of all, I like to recall my father's keen appreciation of your fine character and gentlemanly courtesy to

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him when he was in Washington, D. C., near the end of your term in the United States Senate. I think there had been some sort of misunderstanding between you, and that he pocketed any feeling he had cherished and went to you frankly for help and advice upon a matter he held very near his heart at that time. The cordiality with which you met his advances, and the sincerity with which you responded in your efforts in his behalf won his affectionate esteem, as such conduct ever does the impulsive and warmhearted."

Judge Turner would not disturb these words of Shakespeare:

Those friends thou hast, and their adoption tried,
Grapple them to thy soul with hoops of steel,
But do not dull thy palm with entertainment
Of each new-hatch'd, unfledged comrade.

He had a not inconsiderable number of friends, old friends, but adoptions came slowly. The greater number of them were of his own profession and shared something of his sectional and social background. They were men with whom he could converse and argue freely on the subject which claimed his chief interest—the law. Among his older friends were Colonel Patrick Henry Winston, at one time attorney general of the state; I. N. Peyton, mine owner; M. M. Cowley, banker; F. P. Hogan and Louis Ziegler, large property owners; Edward Whitson and Frank H. Rudkin, Federal judges; William H. Cowles and N. W. Durham, newspaper publishers; Attorneys James M. Geraghty (later judge in the state supreme court), and Frank T. Post.

His best friend was Frank H. Graves. Their love for each other was like that of David and Jonathan—“wonderful, passing the love of woman.” For nearly fifty years they talked and argued about law, planned their business ventures, and cheered each other on. In 1914, when the Judge announced his candidacy for the Senate, Mr. Graves wrote an appropriate note in appreciation of the act. Turner replied, referring to their friendship and expressing the hope that it might be transferred to the “sweet bye and bye.” He added this characteristic comment: “Geraghty (James M.) who has no sentiment, says, ‘Tell him to be sure and register.’ I don’t care a damn whether you register or not, and I assume that, as usual, you will not.” Late in life he wrote Graves these lines: “We have been more closely associated than most men in business, and in a great variety of situations calling for the exhibition of fine judgment, high moral courage, and fidelity to the requirements of a great friendship. If you have ever failed in the obligations of that friendship, unless it might be in an occasional row over the bridge table, in which I was more to blame than you, or an

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40 Kizer, citing 2 Samuel 1:26, “Eulogy of Judge Turner.”
occasional difference in business judgment, I do not now recall it, and I hope you can truthfully say the same of me."42

But the Judge never wore his heart on his sleeve for anyone, not even for his friend of a lifetime, his "Gravey." Mr. Graves testifies with emphasis—and with him it is a mark of the Judge's great mind and character—that he never fully understood the Judge. Among the qualities of Judge Turner which Mr. Graves does claim to understand were his capacity for unselfish, enduring friendship and an equal capacity for unremitting hatred for those who had earned it.

In Judge Turner's generation it was by no means unusual for a man with no more formal education than he had to achieve outstanding success in manufacturing, transportation, or other business; but the Judge won his fame in the learned profession of law and through that profession attained distinction as a statesman. It is a notable tribute to his success at self-education that a number of men, lawyer associates, who knew him fairly well made the mistaken assumption that he had college training. As a matter of fact, in the use of both the written and spoken word he greatly excelled typical college graduates of his own or our generation.

He did not have a broad mind, the Jeffersonian type of mind which reached out into practically every field. There is no evidence that he found any enjoyment in approaching a new problem unless that problem was related to his duties as a lawyer, judge, or statesman. His capacity for observation might be described as decidedly limited; or at least the objects of his interest were limited.43 Nor would one characterize him as resourceful beyond a very definite capacity to interpret and apply the principles of the common law to new conditions and situations.

In what then did his mental power lie? This is the answer: In his singleness of purpose plus his photographic memory. He was probably told or learned very early in life that to be a lawyer one must know the law and be able to speak and write correct, clear, and convincing English. To the acquisition of these essentials he addressed himself to the exclusion of practically everything else. This was the secret of his education. It was his secret in dealing with his cases as lawyer and judge, in informing himself on the issues for debate before the Senate. And he put first things first, seldom, if ever, making the mistake of speaking first and getting information later.

When in the process of informing himself on any point or subject, he sought information and "leads" far and wide. He looked for them in books, he conferred with his associates, he sounded out his opponents. He was open to suggestion and advice. Once he had made up

42 Turner to Graves, January 21, 1929. Copy in the possession of Mr. Nuzum.
43 Frank H. Graves, interview.
his mind, however, he was inflexible. Suggestions offered for the purpose of changing his views he had either thought of before and discarded or he now rejected as immaterial or irrelevant. Convinced of the correctness of his position, he would not change it.

The Judge had a well-rounded law library which, combined with those of his law partners, was not only adequate for all practical purposes, but also supplied the source from which deep legal learning was drawn. His home library was not large—consisting of some eight hundred volumes of history, biography, classical and modern literature, and general reference works—but reflected "in its comprehensiveness the great mind which guided its selection." Judge Turner read widely in the law and on the legal phases of government. General literature, both poetry and prose, held his interest, but he was not an omnivorous reader. He did not read and read and read. His method was to read and ponder and think, a method which precludes the reading of several books a week. All of his friends marveled at his prodigious memory. He remembered everything he read, they say. This retentive capacity is apparent to anyone who gives attention to his qualities of mind. A fine sentence, a happy phrase, he could almost invariably recall. And he had the wit to vary them, to rephrase them, to reshape them to convey his own ideas, a fact which goes a long way to explain the secret of his literary style, and, for that matter, the style of nearly everyone else who is one notch below genius.

Judge Turner wrote exceptionally well. He was almost never guilty of a grammatical sin and errors in diction were equally scarce. He sometimes delighted in the long sentences common to literary men and orators of his day and to lawyers and bill drafters of both his time and ours. Yet his sentences were always clear, usually well balanced, and often eloquent.

An argument for the court, a speech in the Senate, a letter to the public, he always prepared with the greatest care, writing it with his own hand. In 1925 Mr. Frederick S. Wood was collecting reminiscences of Theodore Roosevelt which he published two years later under the title *Roosevelt As We Knew Him*. Senator Turner was one of some two hundred who were asked to contribute a reminiscence. He complied, submitted the story of his association with Roosevelt in the Alaska Boundary Dispute. Upon receipt of Turner's contribution, Mr. Wood wrote him as follows: "It is without a doubt, to my mind, the most valuable of almost 150 contributions that I have received to date. May I not comment also on the editorial and mechanical perfection of your article. It is altogether a novel experience to receive an article prepared with such scrupulous exactness, and such meticulous

"Statement of Principal Henry M. Hart, Lewis and Clark High School, Spokane, at the time the Turner library was given to the school (1932)."
care . . .” This expression of appreciation takes on added significance when it is noted that Turner's effort was a companion of those of such giants as Elihu Root, Charles E. Hughes, Charles W. Eliot, Brander Matthews, David Starr Jordan, and Nicholas Murray Butler.

When President Taft was tendered a luncheon in Spokane in September, 1909, Judge Turner was designated to introduce him. Experienced as he was, he did not trust himself to find when the occasion arrived "a few appropriate words." He knew that a number of men thought they could make a proper introduction on the spur of the moment, but he associated himself with a very large body of American people who wished that introductions might be better and with a very select group of introducers who prepared for the office. He wrote out his introduction with his own hand, and when the time came to use it he spoke, without reference to notes, his genuinely pleasing words of simple grace and dignity. He was not reminded of any story; he did not detail the President's career; he did not intimate that he might do something for Spokane; and he did not anticipate the President's address. He used words of restrained praise, delightful, satisfying words as necessary for the enjoyment of post-luncheon speeches as color and garnishes are for the enjoyment of food. "The man whose great qualities of mind and of heart" had "caused him to be chosen as the leader of this nation" was immensely pleased. Thirty years later the Judge's old associates still remembered the effectiveness of his well-chosen words.

Judge Turner's care in writing may explain, in part, his limitations as a speaker. When he spoke on matters in which he was interested—on the law in relations to a client's case, on a question of governmental policy in the Senate—he was a most pleasing and convincing speaker, although on occasion somewhat prolix. Such speeches lent themselves to his style of preparation, his style of language, and, except where denunciation and exhortation were called for, he delivered them in a winsome, conversational tone. He was effective also in a political convention or at a citizens' gathering in advocating a specific issue or in denouncing a particular piece of injustice.

As a speaker at commencement exercises, chamber of commerce banquets, and at lodge conventions, he was almost a bore. His language was good, but he was neither inspiring nor entertaining. Often one could look in vain for any clear plan of organization, any ringing message which he was seeking to drive home. Or, if one should find a message, it might be unsuited to the occasion. For example, in 1894,

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"F. S. Wood to Turner, September 5, 1925. In the possession of Mr. Nuzum.

"Introduction as written by Turner in longhand is among the W. S. C. Turner papers. Spokesman-Review account of it in issue of September 29, 1909."
he selected "Government Ownership of Railroads" as the subject of his Fourth of July oration at Colfax, Washington. Joe Smith (now of Seattle), seated at the press table, noted that the Judge's "speech was a scholarly production but his delivery was very poor . . . Many people left the arbor while the speaker was still talking." Judge Turner's difficulties in addressing a jury and in reaching the voters from the stump—his inability to speak convincingly the language of the common man—have already been mentioned. He was not lacking in a certain ironical humor, but it is probable that it often passed over the heads of his audience. In any case, it is less effective on the hustings than the "haw, haw, haw, that's a good one" variety.

Lacking the dramatic touch except when faced with a situation which naturally placed him in a dramatic role, as did the debate on the silver question in the Republican state convention in 1894, he could not use the press as many public men used it. To be sure, his course was often news in the days when he held public office, but he was news because of the significance of his utterance and the importance of the subject, not because he had maneuvered himself into the news. He stood well with newspaper men, but he was not a man upon whom they could rely when news was scarce for a blast to stir up an issue or controversy. So undramatic was he that he was more likely to write the press a letter than to call in the reporters. No doubt he knew that an interview might make the front page and that a letter was certain to be buried in the center of the paper. Since he wrote good letters which clearly set forth his position, he was probably fearful that the interview as reported would not adequately and clearly express his views. Understanding all of this fully, most politicians would prefer the interview.

Certain other qualities which are commonly associated with politicians were lacking in Judge Turner. He was perhaps too sensitive to criticism. He could take criticism from his friends if it was administered cautiously, but his reactions to general criticism were likely to arouse his combative instincts too violently. Cooperation was not his long suit. He had the desire to work with others, and he succeeded in some measure for varying periods of time, but he was instinctively and by profession an individualist. His easily offended honor and his directness often won out over his tact. Sometimes he lacked patience, and he had entirely too much temper. Some understood his temper and put up with it; others sulked or withdrew their support. Reconciliation and forgiveness came hard with him, if at all. One of his best friends says that his memory of a wrong was as long as his memory for a point of law. The same friend testifies to another weakness—his inability to judge men. A few fairly poor specimens of men were his

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"Joe Smith to the writer, July 3, 1941.
"Frank H. Graves, interview."
friends, political friends at least, and he stood by them through thick and thin. His unyielding loyalty to certain unworthy friends was sometimes a political handicap, but less so than his relentless hatred of his foes. These non-political traits were not decisive, for the Judge offset them with others of positive worth.

His sense of fair play was one of his most pronounced qualities and perhaps one of his most valuable political assets. However, his ideas of fair play must be judged by the standards of his own day, standards so low that they placed his sharp bargaining among delegates and legislators near the top of the list of permissible practices. As late as 1912, when the idea of direct primaries and popular control of conventions was generally accepted, he controlled the Democratic state convention for Clark by strategy he had learned under Conkling. Yet, so fair was he in his use of this strategy that the state delegates at the national convention, a number of whom were pledged to Clark against their will, stayed by Clark to the end, several of them declaring openly that they did it only because Turner had been fair with them.

The Judge had a fair capacity for political organization. He did not use the painstaking system of reaching into every precinct; he did not try to control all details of organization throughout the state. His plan was to depend upon loyal political and personal friends, more upon the latter than upon the former. They gathered about him in each of his campaigns, delivering and receiving stout blows, asking no quarter and giving none. They were more effective in the heyday of caucuses and conventions than after the advent of the direct primary and the direct election of United States senators. The Judge himself was more successful in handling conventions and legislative caucuses than in reaching the people generally. In his political methods he belonged essentially to the old school, never feeling entirely at home with the newer instruments of democracy.

Indomitable physical and moral courage marked Turner’s career. His first move was to determine his course. Then he was ready to go the limit. He seems to have had little, if any, physical fear. The “border ruffian” of the Civil War period in Missouri and the Ku Klux Klan night riders of Alabama in Reconstruction times had seasoned him against it. Older residents of Spokane tell of his courageous leadership during the depression of the early ’nineties, when it was thought that aggressive labor organizations were about to resort to violence in Spokane. Some say that he was a fool to “stick his neck out,” but all admired his courage. Sure that he was right and grossly offended at what he regarded as the high-handed act of a judge, he went to jail in Alabama rather than yield a point that would have damaged the case of his colored client. He displayed a high type of courage when,

40 F. T. Post, interview.
as a young judge in Washington Territory, he gave decision after decision against the politically powerful railroads, and when, as a member of the state constitutional convention, he thwarted their plans, even as a seat in the United States Senate was suggested as a suitable reward for a more accommodating spirit. His denunciation of the Republican leadership in the state, in 1894, and his withdrawal from that party two years later may indicate political courage, although it is a fact that he had nothing to gain by remaining in the Republican party. His failure, in 1916, frankly to declare his position on the initiative and the referendum and other instruments of democratic control and his dallying with the prohibition issue may be put down on the debit side of the ledger of courage, although a frank avowal of his position would have meant a more smashing defeat for his senatorial aspirations than he actually received. But in the sort of courage strong men have in mind, the “prevent the injury,” “right the wrong” type of courage, there is not the slightest evidence that the Judge was ever deficient.

Brought up by devout parents, members of the Christian Church, he ever had the greatest respect for religion. In later life he deplored the crusading drives certain Protestant churches were making against what he regarded as harmless pleasure, or, at the worst, only petty immoralities. The “liquor and tobacco” Christians, striving mightily to abate the smoke nuisance and to consign demon rum to hell, he regarded as futile pinks of morality who were neglecting the greater moral and spiritual values. He believed sincerely in the church as a force for “law and order,” as a stabilizing influence in society. He sometimes remarked that everyone should belong to some church as a part of his civic duty. The Catholic Church he looked upon not only as a great religious force but as an invaluable civic organization. “There is an institution!” he would sometimes say in admiration.50

He was not concerned with dogma of any kind. He did not presume to know anything, as he would phrase it, about “the sweet bye and bye.” Sometimes he was whimsically skeptical about the “peace beyond the river.” Turning to old friends after a minister had preached the funeral of another, he said: “It would take more than the weak generalities of one poor little Methodist preacher to rob death of its terrors, wouldn’t it.”51 On his last evening (January 25, 1932) he said to Frank H. Graves, who had come to be with him at the end of the long trail of their friendly years: “I will be waiting on the strand for your boat to come in, if there is any strand or any boat, which I very much doubt.”52 This was the Judge, speculating upon the unknowable, smiling over his doubts, and having his little jests, even as

50 Judge Geraghty, interview.
52 Frank H. Graves to A. W. O’Harra, February 26, 1932.
the old man with the scythe was laying his blade to the golden ripe grain.

Yet he had a basic religious belief. In 1914, in an address at Garfield, Washington, he said: "I hold it impossible for any man of fair intelligence who has reflected on the subject to doubt that there is a God above us who rules the universe, from the spheres circling through space to the meanest insect that crawls on their surface. . . . Faith, hope, charity, love, truth, honesty, fidelity, are as truly the creation of the Almighty, and bear his impress as unmistakably as the mountains that rear their heads to heaven. . . . And if this be true, who can doubt that he intended his sentient creatures to cherish and preserve these virtues, mightier in their force than the shock of worlds, in their conduct toward Him and toward all his creatures? . . . Man must live in accord with his Maker, and can then trust his future to His keeping with the same confidence that a child exhibits when it goes to sleep in its mother's arms."53 Mr. Robert L. Edmiston, a man of strong religious convictions and an active church member, testifies that Judge Turner's "views of God Almighty was broader than the Bible account and comprehended the 'laws of Nature and Nature's God.'"54 Mr. John P. Hartman takes a similar view and attributes the remarkably fine character of Judge Turner to his early religious environment and his basic religious faith.55

Penned by the Judge's own hand, and pasted in a scrapbook beside an article on Roscoe Conkling, are these lines, lines which pleased the humble spirit of Lincoln, and which must have been spiritual nourishment for the Judge:

Oh, why should the spirit of mortal be proud,

Like a swift fleeting meteor, like a fast flying cloud?

If Judge Turner had a Biblical text for his rule of life, it was probably the one that so many great souls have found sufficient: "What

53 Turner, address to graduating class, Garfield High School, May 22, 1914. W. S. C. Turner papers. Mr. Frank H. Graves interprets Judge Turner's religion in these words: his "religious beliefs were simple and direct. We are all, he said, children of nature. By her processes and as an incident of her purposes we have been brought here without our knowledge or volition. Likewise we will depart this life through her processes for her purposes. Birth and death are natural and one is no more to be feared than the other. What was for us after death must of necessity be good because we were still children of nature and subject to her processes carried along on the course of her great purposes. He said, however, that so far as by searching we could find out, everything both animate and inanimate was subject to change, and that change was always from the lower to the higher form, alike in the simplest animalcule and in the myriad systems of worlds in boundless space; and he could see no reason why that rule should not continue us in some higher form. In that faith he lived content and died unafraid." In Memoriam: Judge George Turner.

54 Robert L. Edmiston, Spokane, statement prepared for the writer, April 1, 1940.

55 John P. Hartman, interview, Seattle, August, 1940.
doth the Lord require of thee, but to do justly, and to love mercy, and
to walk humbly with thy God.\textsuperscript{56}

Here ends the story of a man, a self-made man to the degree to
which it is possible to make that claim for any man. He was not a
great politician; he had too many porcupines in his menagerie of
virtues to be well adapted to that art. Frank, forthright, outspoken,
"swift to maintain inflexibly the position that he thought right,"\textsuperscript{57} a
fighter through his Scotch-Irish ancestors and his Missouri-Alabama
environment, he was a citizen any republic in any age would be hon­
ored to claim, a statesman of high order, and, above all, a great law­
yer. The inner man no one ever understood. When all of the avail­
able evidence has been collected, we still cannot understand him. Per­
haps we should be greatly disappointed. Who can understand a man?
One of Judge Turner's friends explains him in terms of his environ­
ment and his deep religious nature; then he adds that he strongly
resembled an Oriental philosopher, a Chinese mystic.\textsuperscript{58} Noting his
unconcern over some of the smaller moralities and his many sturdy
virtues, the late Judge James M. Geraghty, paraphrasing a sentence
which Robert Ingersoll had used in his eulogy of Conkling, character­
ized Judge Turner in these words: "He was of the Roman mold—a
character from Plutarch."\textsuperscript{59}

\textsuperscript{56} Micah 6:8.
\textsuperscript{57} Kizer, "Eulogy of Judge Turner."
\textsuperscript{58} Mr. Hartman, interview.
\textsuperscript{59} Judge Geraghty, interview. Ingersoll's sentence in characterization
of Conkling was: "He was of the classic mold—a figure from the antique
world."