

PROCEEDINGS OF THE COURT
ON THE
DEATH OF THE HON. JOSEPH G. BALDWIN.

TUESDAY, *October 4th*, 1864.

Present: SANDERSON, Chief Justice; and SAWYER, SHAFER,
RHODES, and CURREY, Justices.

At the opening of the Court, George Cadwalader, Esq., addressed the Court as follows:

May it please the Court: It is my unhappy office to announce to you the death of JOSEPH G. BALDWIN, and to invite you, by appropriate ceremony, to pay high and solemn tribute to his memory. Death, which overtook him on the first day of October, came as it comes to the soldier, for the summons from his Master was brief. The ultimate penalty of life was paid by him in the fiftieth year of his age—that period in which (as I have often heard him say) the intellectual faculties reach the zenith of their power, splendor, and usefulness—and whereat the intrusion of death is never more painful.

The late JOSEPH G. BALDWIN had been a citizen of three

States; born in Virginia, where he became a lawyer, Alabama was for many years his home; there his juridical abilities were first fairly displayed and adequately requited; there, letting loose the fruitful imagery of his mind in the few moments of leisure from his professional pursuits, he gave to literature his celebrated "Flush Times," and "Party Leaders." In the first may be found a wit and a fund of humor as marvellous as that which has given deathless fame to Sheridan and Hood; in the latter, a peculiar grace of expression, combined with a fulness and ripeness of thought, that deals evenhanded justice to his great "subjects."

To this State he came (not unheralded) in the year 1854, and at once took his appropriate rank among his professional brethren of this coast: for the reports of this Court show, during the years 1855, '56, and '57, his connection as counsel with a majority of the important causes.

In the year 1858, the death of Chief Justice Murray occurring, Judge BALDWIN was elected by the people to serve out the remainder of Murray's term. From October, 1858, until January, 1862, Judge BALDWIN was an Associate Justice of this Court; and even now, so fresh is his connection with this tribunal, that the very chair in which he sat and listened to the business of the Court is now before me.

The labor of Judge BALDWIN upon this bench was vast. His mind, rather of a creative than executive cast, took in, as if by intuition, the just bearings and controlling principles of each of the multifarious subjects of litigation brought before him. And then that felicity of diction, which had won him fame as an author, enabled him to clothe his judgments with a wondrous grace and simplicity of expression.

Ten volumes of the twenty-three which to this time form the history of this Court are mainly devoted to his opinions. From his first case, *Aud v. Magruder*, in the Tenth California, which may be noted as restoring to existence, on this coast, a well known principle of commercial law, down to his last, *Lathrop v. Mills*, in the Nineteenth Volume of our Reports, which annulled a piece of unjust legislation, there is to be found a singularly correct and luminous train of reasoning.

Intermediate among his judgments, and more prominent than the rest, stands *Hart v. Burnett*, of which the present bench in language of deserved compliment, has said: "That the opinion in that case is a monument to the learned and industrious research of the Justice by whom it was delivered."

Turning from his judicial history, replete with wisdom, which will for ages serve as a "lantern" to the seekers after legal knowledge, we can enter the domain of his private character to find it unstained, irreproachable, and true in each relation of life: To his family he gave his constant care; to his friends "fidelity;" and to the creditor his debt. Severely learned, his knowledge was never ostentatiously displayed; though a veteran lawyer, his ways and manners were marked by the greatest simplicity.

As he sleeps now and will sleep under the wing of "Lone Mountain," his friends—pilgrims to the grave of the "Just Judge"—out of the fulness of their hearts can say: "Here is a man; but 't is before his face I will be silent."

By request of the members of the San Francisco Bar, I present the resolutions adopted at a meeting thereof, and ask that the same, in honor of the memory of the distinguished dead, be spread upon the minutes of this Court.

At a meeting of the San Francisco Bar, held at the City Hall, on Saturday, October 1, 1864, at 2 P. M., the following preamble and resolutions, in respect to the memory of the Honorable JOSEPH G. BALDWIN, deceased, were unanimously adopted:

WHEREAS, By a dispensation of Divine Providence we are called upon to mourn the sudden demise of our friend and brother, JOSEPH G. BALDWIN, late a Justice of the Supreme Court of this State, and at the time of his decease a distinguished member of this bar; therefore,

Resolved, That in the death of Judge BALDWIN we have lost a beloved friend and brother, endeared to us not only by his simple, frank and affectionate temperament, his sparkling wit and genial humor, his generosity and manliness of char-

acter, and his entire freedom from narrow and sordid views, but also by his stern sense of right, his high principles of honor, his clear and lucid intellect, his cultivated literary taste, and his enlarged and liberal views.

Resolved, That as a lawyer our deceased brother was eminent for his clear and logical perception, his extensive research, and for a great power of analysis combined with copious illustration; to all which he added a nice sense of professional honor, and a genuine love of his profession in its higher walks.

Resolved, That as a Judge of our highest Court of judicature he did much towards elucidating our infant system of laws, and dealt with many novel and perplexing questions with singular industry and ability; whilst his written decisions are characterized not less by grace of style than by scholarly learning and sound logical deduction.

Resolved, That we deeply deplore his loss, and shall long cherish his memory as that of a beloved friend and brother to whom we were bound by no ordinary ties of affectionate respect; and, as a token of our feeling, we will attend his funeral in a body.

Resolved, That the Chairman of this meeting request of the Supreme Court, and of the Courts of this city, and of the United States Courts sitting in San Francisco, that a copy of these proceedings be spread upon their records; and that he forward a copy to the family of the deceased, with an assurance of our sincere sympathy in their great bereavement.

The Chief Justice, in reply, said:

It was not my good fortune to become intimately acquainted with Judge BALDWIN. Residing at distant parts of the State, I do not remember to have met him until about the time he achieved the highest honors of our profession in the gift of the people of this State. From that time until he left the bench I frequently met him as Judge, and occasionally in social inter-

course. Although thus limited, my intercourse with him sufficed to impress me with a most favorable opinion of him as a man and as a lawyer, and the views which I formed of his character in both respects are in harmony with the sentiments contained in the resolutions presented by the bar. He certainly possessed, in a most eminent degree, those varied qualities of head and heart which never fail to render their possessor the centre of social attraction. Frank and genial in his manners, endowed with a marvellous wit and ready humor, and possessed of a fund of information and illustrative anecdote rarely, if ever, equalled, and which never failed to honor all drafts made upon them by the shifting scenes of social life, he had, as a conversationalist, but few peers, and no superiors. His accomplishments in that respect were so great and varied that occasion never found him unprepared, and opportunity never passed unimproved. In social life he was grave and profound, or light and gay, as occasion suggested; and he rarely touched upon any subject which did not receive some light from the depths of his logic or some lustre from the scintillations of his wit. On account of these qualities he was endeared to his friends, and his society was courted by strangers; and when contemplating him only in the light of his social character, it may with truth be said, that "none knew him but to love him; none named him but to praise;" and had he in all other regards failed to challenge our respect and admiration, his character in this regard would have sufficed to preserve his memory fresh in the hearts of all who knew him. But his claim to our respect and remembrance has an additional and more lasting foundation, not narrowed to the circle of his friends and acquaintances. He came to this State when its jurisprudence was in its milk and swaddling clothes; he found the field of professional labor occupied by others who had come before him, of no mean ability, among whom were many whose names were not unknown to professional fame in other lands, yet he speedily achieved a position in the front rank of a bar noted for its ability and industry. This, as has been said, is attested by numerous cases found in our Reports, where his name appears of counsel. Probably no State in the

Union ever presented for legal investigation so many judicial problems of so varied, novel and intricate a character as are found in the jurisprudence of California. To the solution of these problems he brought a mind gifted with a clear intellect, and stored with professional learning acquired on other fields. His mind readily grasped and solved the most intricate and perplexing questions, speedily winning for him a professional eminence, from which, in obedience to the popular voice, he received the highest honors in the line of his profession. He took his seat upon the bench which we now occupy, at a time when the calendar of the Court was crowded with cases, many of which involved novel and important questions which were hardly known to English jurisprudence, partly originating in the laws and customs of a foreign people, and partly in the peculiar pursuits and habits of our own. With what masterly success he dealt with these questions, the many able and well reasoned opinions which he has left behind bear testimony. The most difficult questions found a ready solution in his power of analysis, and a clear demonstration in his elegant and forcible diction. He remained upon the bench but four years, yet during that short period he made his mark upon the jurisprudence of the State. He found it, in many respects, crude and unformed; he did much toward bringing it out of confusion, and establishing it upon a certain and sure foundation; and we who have come after him, in the brief time during which we have occupied these seats, have frequently found ourselves indebted to his wisdom and industrious research, and have always found a safe guide in his enlightened judgments. But Judge BALDWIN'S fame does not rest alone upon professional achievements. He occasionally turned aside and strolled for a time in the more quiet walks of literature, and each time brought back gems of rare beauty and worth, which find a fit companionship by the side of our best authors; and I am told that, prior to his death, he had conceived and matured the plan of another work, which was only waiting a convenient opportunity for its execution. Viewed in all the relations which he filled, as friend, companion, lawyer, and Judge, we rarely meet with his equal. Such men seldom come among

us, and when they take their final departure it is eminently fit and proper to note the event in the manner proposed by these resolutions, in token of our great regret, and as a last tribute to their memory. It is ordered that the proceedings and resolutions be spread upon the records of this Court.