

In Memoriam

CHARLES NEWTON FOX

[At the opening of the Court in Bank on the first day of August, 1904, Mr. John M. Burnett, on behalf of the Bar Association of San Francisco, presented the following memorial, adopted by the Association on the death of Charles Newton Fox, formerly an associate justice of the Supreme Court of California. The memorial was received by the Court, which ordered it spread upon the minutes.]

CHARLES NEWTON FOX was born at Redford, Wayne County, Michigan, on the ninth day of March, 1829. At the age of fifteen years he went to Ann Arbor for the purpose of earning his own living and going through the university, which had just been opened. Finding himself unable to complete the course of studies for want of means, he went into a printing office and learned the "art preservative of arts," and soon became an editor. He was elected city recorder of Ann Arbor, and acted as mayor of the city a portion of the term.

Casting his fortunes with the legal fraternity, he completed his law studies in the office of Kingsley & Morgan, and was admitted to the bar by the Supreme Court of Michigan in 1856. Believing that a young man should go West, he came to San Mateo County in August, 1857. Soon after his arrival he was appointed to fill a vacancy in the office of the district attorney, and by successive elections held it for five years, when he declined further election.

The Spring Valley Water Company learned his worth and retained him as their attorney to attend to their business in San Mateo County. Under his prudent management valuable rights and property were secured in that county by the company in ten years without a single suit.

Upon the organization of the San Francisco and San Jose Railroad Company, Mr. Fox became the local attorney for the company to secure right of way through San Mateo County. He subsequently became president and attorney of

the Western Pacific Railroad Company. He removed from Redwood City to San Francisco and was appointed general attorney of the Spring Valley Water Company, and continued to act as one of its legal advisers for nearly forty years.

Several times he was urged to accept judicial and other positions, but always declined, except on the first session of the legislature held under the new constitution. As he foresaw the necessity of making the laws harmonize with that instrument, he consented to run for the assembly, and was made chairman of the judiciary committee. One of his principal objects was to keep bad laws out of the statutes. During the hundred days of the session it is said he reported a thousand bills for indefinite postponement. Very few of these were passed, and it is a significant fact that every one that was passed against his opposition, on the ground that it conflicted with the constitution, was pronounced unconstitutional by the Supreme Court. Considering the rapidity with which our departed brother was compelled to examine the immense mass of proposed legislation passing through his hands, this work was one of the most creditable ever performed by any legislator of the state.

In June, 1889, Judge Fox was appointed by Governor Waterman associate justice of the Supreme Court in place of Justice Temple, resigned, and served to the end of the next year. While on the bench he performed as large an amount of work as any other member of the court. His opinion in the celebrated Jessup case has become the acknowledged rule of decision all over the United States in similar cases. As far as we know he has never been overruled on a question of constitutional law, with one exception, while on the bench or at the bar.

In 1881 he was selected as general counsel for the Pacific Mutual Life Insurance Company, and, except while on the bench, held the position up to the time of his death.

For many years he was a member of the law firm of Campbell, Fox & Campbell. On the dissolution of that firm he formed a copartnership with Mr. M. B. Kellogg, which lasted until the firm of Fox, Kellogg & King came into existence. Subsequently Mr. King withdrew, and the firm became Fox, Kellogg & Gray. In 1895 Mr. Kellogg withdrew, and the firm of Fox & Gray continued until the death of Judge Fox.

In his early manhood Judge Fox became a member of the Independent Order of Odd Fellows. He worked zealously in behalf of the order, and held some of the highest positions in it on the Pacific Coast.

Our departed brother was a man of strong convictions, and protected the interests of his clients by all honorable means in his power. Respectful to the court, as every lawyer should be, he never would submit to injustice without carrying his case to the court of last resort. He was courteous and frank in his intercourse with his brother members of the bar, and honorable in the conduct of his cases. In his private life he was upright, and left to his widow and two daughters a name of which they may well be proud.

One of his characteristics was his indefatigable industry. To him work was a pleasure as well as a duty. True to his nature he attended to the interests of his clients up to a late hour of the very day on which he was stricken down. He left his office on the twenty-sixth day of last April, about five o'clock in the afternoon, and before the morning had dawned disease had stilled his active mind, and he had passed beyond the help of man.