

## In Memoriam.

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ADDISON C. NILES.

DIED JANUARY 20, 1890.

At the opening of the Supreme Court in Bank on the morning of Friday, the seventh day of March, 1890, there being then present Mr. Chief Justice Beatty, presiding, and Justices Thornton, Sharpstein, McFarland, Paterson, and Fox, the Hon. E. W. McKinstry announced to the court the death of the Hon. Addison C. Niles, a former member of the court, and presented the following memorial, which had been adopted by the Bar Association of the city and county of San Francisco:—

### IN MEMORIAM.

Addison C. Niles was born at Rensselaerville, New York, in July, 1832. His father was a man who held prominent positions in the state of New York, and Addison had every opportunity and facility that those times afforded for thorough education and mental training. From his early childhood he acquired knowledge with remarkable ease, and his memory was remarkable for its retention. He graduated from Williams College at the age of twenty, and promptly commenced the study of law in the office of Hon. Increase Sumner, at Great Barrington, Massachusetts. In 1854 he removed to Catskill, New York, where he completed his law studies with Rufus King, afterward a prominent member for many years of the national House of Representatives. He was admitted to the bar in New York in 1855, and immediately after came to California. He located in

Nevada City, then a principal gold-mining center, and commenced the practice of his profession. He was at different periods a partner with Hon. T. B. McFarland, Hon. John McConnell, Senator Sargent, and the late Chief Justice Niles Searls, the last-named being his brother-in-law. During the winter of 1855-56, Judge Niles and Judge McFarland edited the Nevada Journal (a prominent paper), for the Hon. E. G. Waite, who was then serving a term in the state legislature.

In 1856 he made an extended trip to the South Sea Islands, drifting about from island to island as his fancy dictated, devoting his leisure time to literary productions, some of which were of a very high order. He was naturally inclined to literary pursuits, and possessed a temperament both poetic and romantic. He had a keen appreciation of the merits of a fine literary production, and few men were better acquainted with the works of our best American and English authors of poetry and fiction.

In 1862 he was elected county judge of Nevada County, which office he filled until his election as a justice of the supreme court of the state of California in 1871. He remained upon the supreme bench until 1880, at which time his term was cut short by the adoption of the new constitution, after which he resumed the practice of the law, and was for a time engaged with Judge Cope upon the preparation for publication of the reports of the supreme court. His later years were largely spent in literary pursuits, which he seemed to have followed purely from the pleasure it afforded him.

Judge Niles, whilst sitting as a county judge, obtained the complete confidence and unbounded respect of litigants and attorneys who had business in his court. Not a single instance occurred in which his judicial action or decision ever excited any personal feeling against him.

Upon the supreme bench his urbanity, untiring pa-

tience, and respectful attention gained the grateful recognition of all having business in his court. His written opinions, comparatively few in number, were remarkable not less for vigor of thought than for his pure and simple English in which they were delivered.

His personal characteristics were known and understood by but few. He sought not many friends, but congenial ones. His real merits were best known to a few intimate friends of pronounced literary and artistic tastes and pursuits. His demeanor was exceedingly courteous. Though taciturn, he often laughed with the heartiness and abandon of a boy. His sympathies were readily aroused, and he was easily moved to tears; his few friendships were warm and earnest, but in the discharge of his judicial duties he knew neither fear nor favor.

He died in San Francisco on the twentieth day of January, 1890. Be it therefore,

*Resolved*, That we, the members of the San Francisco Bar Association, lament the death of Judge Niles, and express to his family our sincere sympathy.

*Resolved*, That this memorial and these resolutions be filed, and that copies be presented to the supreme court, federal court, and superior court of this city and county, by members of the association to be appointed by the president, with the request that the same may be spread upon the minutes of those courts.

Mr. McKinstry then said: May it please the court, the people of this country are proud of an independent judiciary. In that regard Judge Niles was worthy of the place he filled.

Incapable of arts to secure the notoriety not infrequently mistaken for fame, he was content to leave it to be determined by those competent to judge whether his public duties were performed efficiently and well.

I believe him to have been almost absolutely fearless. I am certain he was absolutely honest,—honest, not

merely according to the low standard applied by a portion of the community to the conduct of public men, but in that he never surrendered his convictions of right to any motion of expediency, nor was his progress from premises to legitimate conclusions ever delayed by any considerations of personal consequences.

He sought not the approval of the ignorant and misguided by giving way to a temporary and turbulent sentiment, miscalled the popular judgment; I venture to say he was never even conscious of a vulgar temptation to yield to the unjust demands of the rich and powerful.

He knew how often the apparent desire of the many is but the fleeting and illusive fabrication of the designing and corrupt few. Yet no man had more genuine respect for the sober second thought of an intelligent people.

The resolutions read give inadequate voice to the bar's opinion of the deceased as a lawyer and a judge; his friends feel a few words should be added expressive of their affection for the man.

In private life his genial nature found vent in humorous words and generous acts,—in the days of his prosperity in substantial charities.

Whatever his successes, he met with many disappointments in his career; it is much to say that these did not poison the arrows of his speech, nor induce him to employ the weapons of detraction or unkind sarcasm. I never knew a disposition more utterly devoid of all envy.

In his intercourse with those of like pursuits, his love of literature led to many playful sallies and apt quotations. It was not known to all his acquaintances that his deeper nature often gave utterance in verse. He was a favorite,—he deemed himself but a humble worshiper of the Muse. Those whose privilege it was to hear them read recall that his briefer efforts, narrative ballads, and lyrics were replete with tender pathos, brilliant fancy, and poetic descriptions. It accords with the modesty

of the man that such as were printed were published anonymously. He wrote to gratify his own creative instinct, and to give pleasure to his more immediate friends.

His faults and weaknesses were not concealed while he lived; the memory of his better qualities has survived him.

We ask the court to order the preservation in permanent form of an imperfect memorial of his virtues.

Mr. Justice McFarland then responded as follows:—

The court is in full sympathy with the sentiments of the memorial just presented from the bar, and it is ordered that the same be entered of record.

The late Addison C. Niles completed his early student life—as a student of general learning and of the learning of the law—in an eastern state; but his whole career in the arena of practical business life commenced and ended here. He was a collegiate graduate, and was one of the many who brought the culture of our elder Atlantic sisters to adorn the newer conditions of our frontier life. He was as thorough a Californian as ever labored among and loved our golden slopes, our graceful valleys, and our sunny shores. And it happened that during most of his life here I was his intimate friend, and for a long time his townsman and neighbor.

When he entered upon his term of justice of this court he seemed to me to occupy as enviable a position as any one whom it has been my lot to know. He was then in the prime of early manhood. He had inherited mental and physical characteristics of a high order of excellence and superiority. His mind was broad and capacious, and of the finest texture; and it had been cultivated to that degree which develops and strengthens, but does not, by overloading, turn original powers into mere sponges to receive the flow of other men's thoughts. His face and features were handsome and dignified and expressive. His physical health and strength and endurance seemed

to be equal to all reasonable demands. His social qualities endeared him to all who enjoyed the good fortune of his friendship. He had great capacity for enjoyment, and was largely of the poetic temperament. He took great delight in both nature and art. He particularly loved the ocean, and made long voyages on its most remote and unfrequented waters. His general education was exceedingly complete; and his study of the law had been regular, systematic, and thorough. He had been at the bar long enough to see the practical application of principles to cases, and to avoid the mistakes of mere cloistered professors who know little of real men and things. But he had not been a practitioner so long as to wish to run the paths into which he had settled under and through established highways. He was a partner at Nevada City for several years of the late John R. McConnell, one of the most learned lawyers and men I have known; and who was then in the full career of a large and lucrative practice. In that practice, owing to the peculiar condition of that region of country, questions were continuously met for which adjudicated cases afforded no precedents, which had to be argued upon broad general principles, to which the philosophy of the law had to be applied by the most comprehensive reasoning, and to the solution of which mere "case lawyers" afforded no aid. It was under such circumstances that Judge Niles received his practical education in our profession. He was never very fond of oral argument; and he disliked to go before a jury. But in the preparation of a cause, in the construction of pleadings, and in the presentation of law questions to a court—particularly in the form of written briefs—he had few superiors.

I scarcely ever knew another man who could put thought into language with such a combination of gracefulness and force. His taste in literary composition was exquisite. It has been stated that he once engaged in newspaper business. That statement has only this foun-

dation: Hon. E. G. Waite, who was editor and a proprietor of the Nevada Journal, published at Nevada City, having to spend a few months at Sacramento as state Senator, induced Judge Niles and myself, then law partners, to edit the paper during his temporary absence. It was at that time published only once a week, and the duties of editorship were not very arduous; but some of the little things which Judge Niles wrote for the paper at that time, hurriedly and during intervals of professional labors, were literary gems. His style, in simplicity and grace, resembled very much that of Addison or Washington Irving. I recollect that a New-Year's address written by him at the time was a model of simple elegance. He wrote, also, at different times, a few short poems of great merit, and a number of literary addresses and papers; but so far as I know, they were never published, or put into any permanent form. While his general scholarship was more thorough than that of ordinary college-bred men in the United States, his tastes led him especially to great familiarity with the whole range of *belles lettres*. But in his writings he never allowed mere literary ornament to obscure vigorous thought; he never put the incident in the place of the principal. And those who choose to examine his opinions delivered while a justice of this court—particularly those in the half-dozen volumes of reports commencing with the 42d California—will find them most excellent examples of the finest judicial style, being characterized by clearness, strength, and conciseness.

He was one of the kindest, gentlest, and most modest and unselfish human beings—man or woman—whom I ever knew. He never intrigued for his own advancement. He had not—or at least never exercised—the art of always putting the best foot foremost. He never passed for more than he was worth; he never passed for as much as he was worth except with the few who knew him intimately. He had nothing of the cold, calculating,

politic, scheming, thrifty, insincere, cruel, and "successful" disposition which Shakespeare gives to that "ingrate" Bolingbroke, who became Henry the Fourth, and into whose mouth the great dramatist puts that celebrated description of the crafty arts by which he sought to "pluck allegiance from men's hearts." He never husbanded his mental resources, or looked after his own fame. I have been informed that when a member of this court he frequently, during consultations, expressed either orally or on loosely written memoranda, with great fullness and exactness, the substance and form of opinions which afterward appeared without any sign of his authorship.

Whatever faults Judge Niles had came from that warm side of human character where dwell the generous and the liberal virtues, where the sources are of those genial and amiable and social qualities which make some men love each other. Such qualities sometimes run into excesses; but this is true, also, of their cold counterparts,—if, indeed, the contractions of selfishness can be called "excesses." This can be said of him without the slightest reservation or doubt, that from his cradle to his grave no cloud, no mist, no breath, no speck, ever obscured or rested for a moment on the bright surface of his character for integrity, and for all the open, truthful, honorable, manly virtues.

For a long time Judge Niles was financially in easy circumstances; during the last few years of his life he was what the world calls poor. The failure of a moneyed institution undermined his fortune, and it speedily disappeared. But he always had an estate in things real and personal which breaking banks and shrinking values do not touch, and which the assessor does not schedule,—in the sunset and the stars; in the shores of the deep-sounding sea, and in the broad ocean itself, on whose breast he loved to be "borne like its bubbles onward"; in landscapes variegated with tree and grass and flower,

and musical with the voices of birds and brooks; in the companionship of genial friends; in the bright and wise sayings of sages and philosophers and poets of all times; in the rich thoughts of his own mind; in the choice works of the sculptor and the painter; and in the love of the beautiful and the grand, wherever found in nature or art or man. And from this estate he derived an income more valuable than the overflowing revenues which often come to duller men from the ownership of stocks and bonds, and from titles in fee to broad acres and brick blocks. Ah, how hard it is to tell who makes the most out of human life!

And if there be another life; if Plato's dream of immortality be not as unsubstantial as were many of his "Ideas"; if the expectations of millions of Christian men and women be not utterly baseless,—may we not hope, at least, that our departed friend has entered upon a sphere of higher existence, with faculties and capacities more suited to its conditions and demands, than those possessed by many who still linger here on this bank and shoal of time, waiting for

"The tide-returning hoarse  
To sweep them from our sight."

The COURT.—The foregoing is ordered spread in full upon the minutes.