

In Memoriam.

SAMUEL BELL MCKEE.

DIED MARCH 2, 1887.

At the meeting of the Bar of the Supreme Court of the State of California, held on the 3d of March, 1887, the death of the Honorable Samuel Bell McKee, formerly a Justice of the Supreme Court, was announced. On the motion of Mr. Oliver P. Evans, a committee, consisting of Mr. Oliver P. Evans, Mr. William Matthews, Mr. John M. Burnett, Mr. Seldon S. Wright, and Mr. W. H. Glascock, were appointed to prepare a suitable memorial, and instructed to report the same at a meeting of the Bar on the 5th of March, 1887. At that meeting the committee submitted the following memorial, which was unanimously adopted:—

IN MEMORIAM.

Honorable Samuel Bell McKee, late an Associate Justice of the Supreme Court of the State of California, having died on the 2d inst. the Bar of San Francisco deems it appropriate to present to your court a memorial of his private life and public service.

Judge McKee was of Scotch descent, and born in Ireland in 1822. In early life he immigrated to the State of South Carolina, from there moved to Georgia, thence to Mississippi, and in 1852 came to California, where he made his home in the city of Oakland. His character and his ability in his profession attracted the attention of the community in which he lived. In 1856 he was elected county judge of Alameda. In 1859 he became

District Judge, which position he held until 1879, when he was elected an Associate Justice of the Supreme Court of this state. He enjoyed the confidence of all suitors who came before him as fully as it was possible for any man to do. His mind was clear and direct, his learning extensive, his memory of great power. He was fearless in the discharge of his duty; no consideration of a personal character ever moved him in office. Perhaps no judge has held office in California who combined these qualities in a higher degree. During his term as Associate Justice of the Supreme Court he was selected to perform the duties of Chief Justice when that officer was absent or unable to act. To the discharge of all his public duties he brought that earnestness and sincere desire to do right which was characteristic of his life.

With the retirement of Judge McKee was ended the longest continuous career in the state judiciary of California, and by his death has been closed the record of an honorable and well-spent life. He deserved and received the admiration, respect, and affection of the people among whom he lived. He was pure in private life, happy in his domestic relations, and religious without ostentation. His manner was dignified, courteous, and gentle.

The Bar of this city, at a general meeting, in token of respect, have adopted this memorial and the following resolution:—

Resolved, That we deeply lament the death of Judge McKee, and tender to his family our heartfelt sympathy in their bereavement, and request that this memorial and resolution be spread upon the minutes of this court.

On the 7th of March, 1887, the memorial was presented to the Supreme Court in Bank, by Mr. Evans, whereupon Mr. Justice Thornton made the following remarks:—

The court cordially concurs in what is said, and well

said, of Judge McKee in the memorial presented by his and our brethren of the Bar. It is a just and fitting tribute to the memory of an honorable and excellent gentleman.

Our departed brother was worthy of the respect and admiration of men. That he was an upright and fearless judge is proven by the incidents of his judicial life. We, his associates in this court, whose acquaintance with him was intimate, and whose intercourse with him was continued for a series of years, can and do testify that he patiently and earnestly sought to ascertain what was just, and to administer justice fairly to all. He uniformly struggled to find it in the settled principles of the law, and to declare it in his judgments.

Judge McKee came early to this state with the intention to make it his home. He sought it as a splendid theater for the practice of his profession. He was well equipped for the pursuit. He had graduated at Oglethorpe University in the State of Georgia, had read law with an excellent preceptor, Judge Henry W. Collier of Tuscaloosa, Alabama, and had practiced in Mississippi. He had achieved a gratifying success at the Bar in the State just named. The novel and until then unheard of attractions of the Golden State induced him to sever the connections he had formed in Mississippi and to migrate hitherward. He came to California endowed with vigor, energy, and hope of a ripe manhood. Here, in a brief period, he secured a profitable practice. He was an industrious and faithful lawyer, and attended well to the interests of his clients. He possessed in a considerable degree the *fervidum ingenium* of the race from which he sprung, and which helped to make him a pleasing and effective speaker.

There was that in Judge McKee's bearing and demeanor which soon won the confidence of those who knew him. They readily perceived his correct appreciation of the obligations which rested on him, and it inspired them

with confidence. His fellow-citizens soon learned his worth and ability and promoted him to positions of trust and honor. The place he was called to fill was judicial in its character, and from an early period in his life to its close, his employments were judicial, — occupying by the suffrages of his fellow-citizens the position of judge, first in the County Court, then in the District Court, and at last in the Supreme Court of the State. He discharged the duties of all these positions faithfully and righteously. His frequent elections to the Bench assure us with certitude that he was an excellent judge. Men trusted his judgment with confidence, and rightly accorded to him honesty, purity of character, and uprightness of purpose. He discharged the duties of the various places he held without fear, favor, or affection. When satisfied that he was right, no consequences personal to himself ever disturbed him. He respectfully regarded all just criticism upon his judicial acts and conduct, and looked on outside clamor with imperturbable equanimity. He viewed it as Lord Eldon did when, on the trial of Queen Caroline, he said: "I take no notice of what is passing out of doors, because I am supposed constitutionally not to be acquainted with it"; and felt as the same learned jurist expressed it: "It is the duty of those upon whom a judicial task is imposed to meet reproach, and not to court popularity. . . . *The people have not taken an oath to do impartial justice, according to the constitution and the law. I have taken that oath.*"

But it may with truth be said that our deceased brother was a popular man. He did not pursue popularity: it followed him. It was a tribute of respect to his pure and upright character. He was of a demeanor gentle, polite, and unobtrusive. He possessed what Clarendon said the great John Hampden had, "a flowing courtesy." He was respectful to the feelings and opinions of his fellow-men. He uttered no harsh judgments. He had an abounding charity. He was generous without profu-

sion and liberal without ostentation. He was singularly free from all pretension or affectation. He was a man of extensive reading outside of the line of his profession, and had reflected much on what he had read. He did not go through life with his eyes, either corporeal or intellectual, closed. He was a close observer of men and things, well versed in the history of his country and of other countries. He was bright and interesting in conversation, and abounded in appropriate anecdote and reminiscence. His discourse was entertaining and suggestive. He was a good listener, too, as well as a good talker, of a genial and sympathetic temperament, and with all these a charming companion. All these tended to make him a popular man. It can be truly said of him that he was a favorite of men, and when he came all were pleased to extend to him a cordial greeting.

Judge McKee wore his honors meekly, and elevation never disturbed the equanimity of his mind and heart. He was a valued and useful citizen of his county and state, a sincere friend, a model in his domestic relations, a kind neighbor, and "given to hospitality." His home was a happy one, the abode of affection, comfort, and refinement. He lived long enough to see sons and daughters grow up around him, to whom he has left the priceless heritage of a good and honored name.

Our departed friend nearly attained the age designated by the Hebrew poet as the limit of man's life. His health was far from vigorous during the last fifteen or twenty years of his life. He exercised great care to husband his strength for the discharge of his official duties, and he did and did well a great deal of work. He labored assiduously as a judge, and did as much and even more than could have been reasonably expected of him. It is truly said of him in the memorial presented that he was "fearless in the discharge of his duty," and it can further be said of him that he was an excellent and satisfactory judge. This is high praise of any man, and our brother deserves it.

The intelligence of his death came to his former associates in this court with painful suddenness. But one of us had heard of the illness which resulted in his decease. But we were aware that he had reached a period of life when the bodily powers are much impaired in strength and vigor, and when the capacity to resist disease had greatly diminished. It could be no matter of surprise that he succumbed to the maladies which assailed him.

It should be further said of our deceased brother that he was a believer in the religion of Jesus Christ. He passed away in the hope and faith of the Christian. He met the King of Terrors undismayed. His last words, "In a few moments the matter will be over," were spoken in the assurance of unfaltering trust. As we say farewell to him across the dark river, there remains to us the consolatory reflection that his gentle spirit, clothed in immortality, is at rest in the mansions of the blessed.

The memorial and resolution presented will be entered on the minutes of the court.