

In Memoriam.

Henry Alexander Melvin,

**ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE STATE OF
CALIFORNIA, 1908-1920.**

At the meeting of the Supreme Court of the state of California, held in Los Angeles, on Wednesday, April 20, 1921, Mr. Bradner W. Lee, on behalf of the California Bar Association, presented and read the following memorial of the life and services of Henry Alexander Melvin, late associate justice of that court, and moved that the same be spread upon the minutes of the court. The memorial had been prepared by the committee on legal biography of the California Bar Association, John G. Mott, Chairman, and presented to the California Bar Association at its annual meeting held at Santa Cruz in September, 1920, and by the association unanimously approved and adopted.

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Memorial

OF THE

LIFE AND SERVICES

OF THE

Honorable Henry Alexander Melvin,

LATE ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE
STATE OF CALIFORNIA.

When a great and good man dies, two lines of comment upon his career are often heard. Those who knew him best are wont to say that his place cannot be filled—the loss is irreparable. Others, observing how quickly all trace of the living disappears into the tomb, are given to cynical comment upon the fleeting, evanescent character of human life and achievements. Neither of these viewpoints is entirely correct. Truth usually lies, as a golden mean, between extremes of opinion. It is true that no man is indispensable, and that a place made vacant by death is promptly filled, and the world moves on, seemingly as though the dead had not lived. It is also true that a big-souled, good man leaves a stamp upon the characters, and a rich aroma in the memories of all who knew him. His constructive work, perhaps with his personality somewhat effaced, takes its permanent place in that great, enduring structure, built from the varying sized stones of each man's effort. Such part of a man's career is as imperishable as life itself is everlasting.

We would speak in this memorial of this imperishable part of Judge Melvin's career—what he was, and is, in the hearts of those who knew him; what he did in the administration of justice; and broader than that, what he did for his fellow-men.

Henry Alexander Melvin was born at Springfield, Illinois, September 28, 1865. When nine years of age, he came with his parents from Illinois to St. Helena, California, and four years later, in 1878, moved with his parents to Oakland,

where his father, a retired medical practitioner, engaged in the drug business. Young Henry partially worked his way through school by assisting his father as a clerk, while he attended the University of California as a student.

He graduated from the University of California in 1889, with a degree of Ph. B., and ever afterward to the day of his death was a loyal son of his Alma Mater, giving without stint of his love and support to that great institution of learning.

Upon his graduation he entered Hastings College of Law, and while a student there was elected and served as Justice of the Peace of Brooklyn Township, Alameda County, receiving his degree of LL. B. from Hastings College in 1892.

Almost from the start he was chosen by his fellow-citizens to serve in public offices connected with the administration of justice, and his path led steadily upward through township, city and county offices, to which he was called again and again by the people of his beloved state, until he reached the pinnacle of his ambition in a seat upon the Supreme bench. The following facts will show his steady rise, and the widening of his sphere of influence, and fields of labor, as larger and larger communities summoned him to their service.

In 1893 he became Assistant District Attorney of Alameda County; from 1894 to 1899 he was Prosecuting Attorney for the City of Oakland; from 1899 to 1901 he was Chief Deputy District Attorney of Alameda County, except a period of three months when he acted as Deputy Attorney General of California.

He was Judge of the Superior Court of Alameda County from 1901 to 1908, and on September 28, 1908, was elected Justice of the Supreme Court of California, was re-elected at the expiration of his term, and was serving at the time of his death, a term which would have expired in January, 1923. Nearly twelve ripe, vigorous years of his life were thus spent as one of the final arbiters of the law.

On June 14, 1893, he was married to Sarah Louise Morse, of Portland, Oregon, who survives him, her grief softened by memories of a long and happy union. Bradford Melvin, a son, also survives him.

Throughout his earlier career, which brought him, in the enforcement of the law, constantly in contact with multi-

tudes of those who were charged with crime, and in his later career as judge of the *nisi prius* and Supreme Courts, no taint was ever so much as charged against his spotless integrity. He was fearless in the discharge of duty, gave everyone a courteous and fair hearing; was always open to conviction, but firm in his conclusions when formed. His judicial opinions published in the Reports evince a clean-cut power of discrimination, strong reasoning force, and an apt and happy gift of expression, made rich by a marvelous command of language coming from his lifelong reading and study of the great authors.

Some Judges make themselves narrow, withered and dry in thought and expression, by reading nothing but legal literature. Wise is the Judge who gives to his reading and study a wider range. If a student of general literature, and of the whole field of human thought, he will find that both his comprehension and expression of legal propositions are greatly enhanced thereby.

Judge Melvin solved perfectly the problem which confronts every Judge, of keeping aloof from the political and business world, without being a recluse. The old judicial standard required that a Judge should withdraw from the world nearly as completely as a religious monastic, and live in a world of abstractions and solitude. That notion has long since passed away. While a judge, in order to preserve independence and impartiality, should not be engaged in other active business, or directly in political activities, nevertheless, in order to be a good judge, he must, as a man, be in close touch with all kinds and classes of his fellowmen, and enter into the thought current of the people. The rights of human beings cannot be decided by cold abstractions. Wisdom, based upon wide contact and experience, is to be preferred to mere learning.

Judge Melvin solved this problem by his membership in organizations. He belonged to the Episcopalian church, and always took an active interest in the congregation of his choice.

In college he was a member of the Phi Delta Theta fraternity and Golden Bear Society. He was an active member of the Bohemian, Athenian and Elks Clubs, of the Union League Club of San Francisco, and the Nile Club of Oakland, and made it his practice in traveling over the state to

accept the proffered invitations of temporary affiliation with many representative clubs and organizations. This kept him in close touch with the people and with the strong, successful and leading men of every community. He also kept in close touch with the coming members of the legal fraternity by lecturing in the law school, and from 1906 to the time of his death was the professor of Legal Medicine in the Oakland College of Medicine and Surgery.

While he was upon the Supreme bench, the close, careful study of the cases to be decided, had the first call upon his time and strength, but during his leisure hours and periods of vacation his life was ruled by the spirit of service for others. He was interested in, and gave unreservedly of his time and strength to, the furtherance of every public enterprise, the purpose of which was the welfare of his fellow-men.

It can be truly said that the dominating characteristic, the moving, sentient, animating instinct of his being was a tender regard for the welfare of others, and in his splendid spirit of service, he ennobled his own purposes in life, and sweetened the lives of others, leaving the inestimable heritage that the world was better that he had lived, and that he influenced and exalted human friendships.

He typified so wondrously well a deep, sincere and abiding affection for humanity, that he was exalted to the highest leadership in all associations of men and women, where his sympathetic and considerate nature, with his gift of oratory, moved the hearts of men and opened up their minds to larger vistas of truth. His memory will be cherished equally, as we recall the soft and tender glow of an eternal benediction.

Judge Melvin had a multitude of friends, a larger host than is given to most men. He had few enemies. Those who were his foes, were such because of their own character and conduct, and he never feared them.

His sudden and untimely death, due to a break in the physical brain, brought blinding tears to the eyes of strong men, tears of which they were not ashamed. Broken by overwork, he fell in the prime of his years. Let us here record our verdict, that his life met the standard of the Scriptures, "without spot or wrinkle." That in his passing, the judicial forum lost one of its brightest and best adorn-

ments, and the State of California a foremost citizen, whose work and whose worth are imperishably woven in golden threads in the fabric of its history.

At the conclusion of the presentation of the foregoing memorial, Chief Justice Angellotti said:

The association of those who are members of this court is necessarily most intimate, and we come to know one another about as well as one man can know another. Those of us who have had the privilege of this association with Judge Melvin, and for some of us it has extended over a period of nearly twelve years, know how futile it is to attempt to put into words the feeling of great loss and sincere sorrow that came to us with the knowledge of his death. For nearly twelve years he had been a member of this court, striving with all his might during all of this time to efficiently perform the duties of his important office. No man had a higher conception of the dignity and responsibility of judicial office than he, and he faithfully endeavored to live up to his own high ideal. How well he succeeded in this will be shown in part for all time by the volumes of our Reports. Therein will be found ample evidence of his industry, his ability, his courage in adherence to his views, his love of justice, and his devotion to our institutions. But these volumes tell only a part of the story, for only those who have worked with him daily, year in and year out, can know how faithfully and well he performed his manifold duties as a member of this Court. Nor can these printed volumes tell of the lovable personal qualities that endeared him to all of us, and which are enshrined not only in our memory, but in the memory of all the many who had the privilege of knowing him well. We feel that the beautiful words of tribute to him that have been presented here by the bar are amply merited, and appreciate the presentation of them in such a way that they can be made a part of the permanent records of the court. They will be entered upon the minutes of the court and also set forth in the next published volume of our Reports.