

In Memoriam.

HONORABLE CHARLES ALLERTON SHURTLEFF

**Associate Justice of the Supreme Court of the State of California,
1921-1922.**

The Supreme Court of the State of California met in special session in its courtroom in San Francisco, at 10:00 o'clock a. m., Tuesday, August 5, 1941, to honor the memory of former Associate Justice Charles Allerton Shurtleff. Chief Justice Gibson presided, with Associate Justices Shenk, Curtis, Edmonds, Houser and Carter and John M. York, Presiding Justice of the Second Appellate District, Division One, present. Taylor, Clerk; Sturtevant, Reporter; Allen, Bailiff.

Mr. Eugene Prince, President of the San Francisco Bar Association, announced that Mr. Fred G. Athearn and Judge Charles W. Slack would present memorials on behalf of the Bar. They, in turn, addressed the Court as follows:

MR. ATHEARN: May it please the Court:

“ 'Tis the ravelings now and then
That tell of the weave of men.”

On April 4, 1857, into the home of a pioneer physician of California, the first Treasurer of the County of Shasta, a State Senator, a member of the Constitutional Convention of 1879, and for many years the Mayor of Napa, was born a son, christened Charles Allerton Shurtleff.

Dr. Benjamin Shurtleff and Anna M. B. Griffith Shurtleff have left a lasting impression upon California and Californians not only through their own long and active lives, but as well through the life of their son—the man whose memory we are here commemorating today—a member of the bar of San Francisco, a member of the first Board of Bar Examiners, a president of the Legal Aid Society, a member at large of the National Board of Stanford University, a member of the Board of Trustees of Hastings College of the Law, a member of the Board of Trustees of San Francisco's Children's Hospital, a graduate of Napa College (now a part of the College of the Pacific), a member of the Board of Trustees of the College of the Pacific, a president of the Bar Association of

San Francisco, an organizer of the self-governing bar of California, an Associate Justice of the Supreme Court of California, a friend of man.

Three months and twenty days ago today, this patriot, this friend of man, laid aside mortality and took on immortality.

Others will tell you of his virtues as a patriot, a lawyer and a judge, but I venture to ask that you review with me those attributes and virtues of his which endeared him to those of us who broke bread with him nearly every working day for almost thirty years. These attributes and virtues wove for him the mantle of immortality—humbleness of spirit, love of his fellowmen, tolerance, kindness.

He was a great man. His simplicity, his meekness, his honesty and his eschewing, at all times and in all places, of fictitious social distinction all were constant attestations of his greatness.

Four score and four years is a long time, measured in the life of a man. At its end there is no disguising the warp or the woof of his character. The ravelings along the way have told of the weaver. So it was with "Charlie" Shurtleff. He lived his allotted time, and died clothed in a golden cloak woven with threads of honesty, good will towards men, friendships without number—friendships which never were permitted to grow cold.

He made living a career, and, although he is gone, his memory is a constant benefaction and an inspiration of confidence and hope. We may have said the last farewell, but if we follow in his footsteps we shall hear again the cheery welcome of our friend.

Judge Shurtleff's religion was living. Tolerance was his creed. He belonged "to the great church that holds the world between its starlit aisles; that claims the great and good of every clime; that seeks the grain of gold in every man, and fans with light and love the spark of good in every soul."

The extent to which he carried his ideals is well exemplified by little things that now may be told.

When Judge Shurtleff was offered an appointment as Associate Justice of the Supreme Court of California, this meant abandoning his practice of the law and closing his office. His then secretary had been with him many, many years, and was, in fact, with him at the time of his death. At that time, not all of the associate justices were entitled to have secretaries. Secretaries were something of a luxury, and the youngest man

usually had to use the court reporter. Associate Justice William A. Sloane of San Diego was entitled to a secretary, but Judge Shurtleff was not. As he thought this over, he concluded that he could not accept the offered appointment, because to do so might seem like abandoning his secretary who had served him so long and so faithfully. So he said, "No, I cannot accept the appointment as Associate Justice of the Supreme Court of California."

Justice Sloane learned of this and came to Judge Shurtleff and said, "If you will accept the appointment, I'll relinquish my right to a private secretary, and you bring your secretary." So it was that he was prevailed upon to accept a position on this court. So it was that Mrs. Lillian B. O'Farrell, now Mrs. Lillian B. Rebok, became secretary to a justice of the Supreme Court of California.

Need more be said to demonstrate that Charles Shurtleff did not live for himself alone and that he harbored no fictitious social distinctions? All labor was equally honorable; each thing done had its place in the scheme of living. The only question was, "Do you do it well?"

Another incident. Unfortunately, Judge and Mrs. Shurtleff were childless. They had employed a young Japanese, Frank Sasagawa, who attended to their wants and helped about the place for many years. There were not many Japanese in California in those days, and very few Japanese women. But Frank wanted a wife. There were many eligible maidens in Japan who would like to come to America, and, to the end that they might be admitted here, sent their pictures to eligible Japanese men in California. Through pictures, maids were wooed and wed. Mrs. Frank Sasagawa was one of California's first picture brides. She took her place beside her husband and soon was helping in the Shurtleff home. Four children were born to this Japanese couple—two boys and two girls. They continued to live in the home of the Shurtleffs. The boys have become fine, upstanding Americans, and the girls are a credit to their native country. No grief was greater than the grief of these Japanese upon the passing of Judge Shurtleff. His interest in this family was constant and watchful. Upon his death, they were all remembered so that the education of the children might be complete.

The judge was cosmopolitan. He recognized no dividing line of race, color or creed. He drew to himself companion-

ship in his home of the same high character and tolerance as were his own.

His first wife, Ada West Shurtleff, presided over his home with grace and charm from October 14, 1886, until November 29, 1925, when she passed away. In 1927, he married a boyhood schoolmate, Nellie Voluntine Crockett, a companionship soon to be interrupted, for she died in 1934. From that time on, he lived alone in Menlo Park, California, save for household attendants, the Japanese family and a host of friends.

Charles Shurtleff lived not only unselfishly, but generously. His eye was never blinded by the dollar. Money had meaning to him only as it could be made to serve those he loved. The record of his relations to his former law partners is eloquent testimony of one of the beautiful traits of his character. It was one of unswerving devotion that has carried down to their sons and daughters even unto this day.

Young men, almost without number, entering the legal profession, have looked upon him with veneration. A touching illustration of this was the occasion of the judge's eighty-first birthday. Superior Judge Albert F. Ross, writing of him, said: "When in my own high school days I first thought of studying law, my father always held 'Charlie' Shurtleff before me as an ideal to follow. They had been friends since their Napa College days, at which time my father lived at the Shurtleff home for a time. I later found that the ideal was well founded, as Judge Shurtleff is learned in the law of unimpeachable integrity, able, intelligent and just. I have never heard anyone say a bad word about him, even among his opponents in court actions."

How wonderful it is not to have heard a "bad word" spoken of a man! But it is more wonderful to have known a man who no one ever heard speak a "bad word" about another man. In private conversation, in the vehemence of argument, or in the heat of a personal political campaign, no innuendo, no hint of disrespect, no word of condemnation, was ever heard to pass Judge Shurtleff's lips. Indeed, he always sought for the best in everyone and always spoke of everyone the best he knew.

Some of us often wondered how he could carry on his law practice, for it seemed that he was doing for others always, giving of both his time and money to the detriment of himself and his law practice. But he was the type of man who be-

lieved and practiced "It is more blessed to give than to receive."

These things made his life full and satisfying. He lived not by work alone, but by every word that proceeded out of his mouth. Paraphrasing the words of Doctor Holland, Judge Charles Allerton Shurtleff was a man with a strong mind, a great heart, true faith and ready hands, a man whom the lust of office could not kill, a man whom the spoils of office could not buy, a man who possessed opinions and a will, a man who had honor, a man who could not lie, a man who could stand before a demagogue and damn his treacherous flatterers without winking, a tall man, sun-crowned, who lived above the fog in public duty and in private thinking.

Let us remember that the setting sun is the morning glow of a land we cannot see.

JUDGE SLACK: On the 14th day of last April, Charles A. Shurtleff, one of the oldest members of the bar in San Francisco, and a former member of the Supreme Court of this State, departed this life at his residence in Menlo Park. It is proper and customary after such an event, and at this time, and in this place, and in this manner, to record the event.

Judge Shurtleff was born in the small town of Shasta, near Redding, the county seat of Shasta County, on April 4, 1857, and, therefore, he was upwards of eighty-four years of age at the time of his death. He was the son of Doctor Benjamin Shurtleff, a well-known physician and surgeon of the State of California.

He received his elementary education in the public schools of Shasta County, and in Napa College, later affiliated with the College of the Pacific, from which institution he graduated with the degree of A. B. in 1879. The honorary degree of LL.D. was later conferred upon him by the College of the Pacific in 1926. He entered Hastings College of the Law in 1879, graduating therefrom with the degree of LL.B., in the year 1882.

He thereafter, and in the same year of 1882, commenced the practice of the law in San Francisco with M. M. Estee, a distinguished lawyer who later was appointed United States District Judge for the Territory of Hawaii. Subsequently, and in the year 1883, or 1884, he became associated in the practice of the law in San Francisco with Judge Waldo M. York, the father of Judge John M. York, the Presiding Justice of the Second Appellate District of the State of Califor-

nia, Division One, Los Angeles, and with John M. Whitworth, a distinguished graduate of the University of California, and the university medallist in 1872, and the president of the California Alumni Association in 1881-1882. Always a vigorous advocate, he was, nevertheless, uniformly fair and courteous, both in court and outside of court, towards his opponents.

Subsequently, and on the removal of Judge Waldo M. York from San Francisco to Los Angeles, and on the death of Mr. Whitworth, Judge Shurtleff continued the practice of the law in San Francisco with Robert B. Gaylord until 1909, and thereafter with Joseph G. DeForest until Judge Shurtleff's appointment, on July 1, 1921, by Governor Stephens as Justice of the Supreme Court of the State of California in the place of Judge Warren Olney, Jr., who resigned as Justice of the Supreme Court on the latter date, namely, July 1, 1921. He was a candidate for the office to succeed himself, but by a curious and unusual circumstance, he failed to be reelected. His first opinion, of which he was the author, or in which he otherwise participated, and his last opinion, appear in Volumes 187 and 190 of the California Reports.

The member of the bar, who now addresses this court, became acquainted with Judge Shurtleff in 1881, when he entered his first year at Hastings College of the Law as a member of the class of 1882. He and Judge Shurtleff became fast friends during the year 1881, and the friendship lasted until Judge Shurtleff's death during the present year. He and Judge Shurtleff, at one time, were members of the Board of Directors of the college, and Judge Shurtleff continued as such until his death.

Judge Shurtleff was twice married. His first marriage was to Ada G. West on October 14, 1886, and who died on November 29, 1925. His second marriage was to Nellie V. Crockett on July 25, 1927, and who died on September 14, 1934.

On reading a few days ago a paragraph in Nicholas Murray Butler's "Across the Busy Years," an account of the death of President Butler's father in the "Weekly Call" of Patterson, N. J., where his father lived, these words, appropriate to the case of Judge Shurtleff, appear: "He did his work thoroughly, and he did not live in vain. His memory will long be cherished and most fervently remembered by those who knew him the most intimately. When such a prominent man dies it is hard to conceive that he is really

gone—gone just a little ahead of us all—to that bourne to which we are all traveling, never to return.”

The Chief Justice requested Mr. Justice York, sitting with the Court by invitation, to respond on behalf of the members of the Court.

MR. JUSTICE YORK: I should like to add to these testimonials in honor of one of the finest men who ever lived, and a man who was an honor to our profession and an honor to this, his native State, some statistical information.

Charles Allerton Shurtleff was born in the Town of Shasta, California, on April 4, 1857, the son of Dr. Benjamin Shurtleff and Ann M. B. Griffith Shurtleff. He received his first education in the public schools of California, and received his Bachelor of Arts degree from Napa College, known as the College of the Pacific, in the year 1879. He received his Bachelor of Laws degree from Hastings College of the Law in the year 1882, and the degree of Doctor of Laws from the College of the Pacific in 1926. He was admitted to the California bar in 1882 and practiced in San Francisco from that time until his death on April 14, 1941, except when he was sitting as an Associate Justice of this court. He was Assistant United States Attorney for the Northern District of California from 1891 to 1893, and became an Associate Justice of the Supreme Court of California in July of 1921. He was a trustee of the National Board of Stanford University, a trustee of Hastings College of the Law, a trustee of the College of the Pacific, and a trustee of the Children's Hospital of San Francisco. He served as a member of the first Board of Bar Examiners of California, and served a term as president of the California Bar Association, now The State Bar of California. He was a member of the American Bar Association, the American Law Institute, the San Francisco Bar Association, of which he was president in 1913, a member of the Legal Aid Society of San Francisco, and the Society of California Pioneers. He was president of the Legal Aid Society in 1920 and 1921; president of the Board of Trustees of the San Francisco Law Library until April 30, 1940. He was also a member of the Commonwealth Club from May 20, 1911, until the time of his death.

He was a deputy with the late Chief Justice Angellotti in the office of the United States District Attorney M. M. Estee, and about 1886 he became a member of the law firm of York,

Whitworth & Shurtleff, composed of the late Judge Waldo M. York, John M. Whitworth, and Charles A. Shurtleff. About 1895 the firm became Whitworth & Shurtleff. John M. Whitworth was my mother's brother, and he died in April, 1901. Judge Shurtleff had no other law partners.

Judge Shurtleff was frequently called upon to act as an arbitrator in very important cases, only a few of which I will name: Fort Klamath Meadows Co. v. California Oregon Power Co.; Bothin Estate Co. v. Klink Bean Co.; McArthur v. Shasta Power Co.; Newspaper Publishers v. Typographical Union.

He was married to Ada S. West in 1886, and she died in 1925. In 1927 he married Nellie V. Crockett, who died in 1934. He had no children. Judge Shurtleff's father was Benjamin Shurtleff, M. D., who came to California in 1849. He was the first County Treasurer of Shasta County, was a State Senator in 1860, was a member of the Constitutional Convention in 1879, and for many years was the Mayor of the City of Napa. Judge Shurtleff's father lived to be 90 years of age, dying in 1911.

Any desire for money on the part of Judge Shurtleff was primarily that he might help the deserving people with whom he came in contact. He was known for saying of people only those things which were to their credit. His brilliant mind was not impaired at any time. When I talked to him, only the day before his death, he recounted to me the things people had been doing for him, saying how good everyone had been to him, and how he had been relieved from worry by the faithful and devoted people with whom he was associated. He was then physically weak, but mentally strong. He was always fearless and always kind. Until I had heard these testimonials today, I believed that words were inadequate to express the feeling we all have for him. My father, who knew him intimately all the time he practiced law, said of him that he was the most nearly perfect man he had ever known.

Upon conclusion of the addresses, Chief Justice Gibson directed that the remarks of the speakers be made a part of the permanent records of the Court, and the Court thereupon recessed.