

PROCEEDINGS OF THE COURT
ON THE
DEATH OF CHIEF JUSTICE SPRAGUE.

MONDAY, April 8th, 1872.

Present: Chief Justice WALLACE, and Justices CROCKETT,
NILES, RHODES, and BELCHER.

At the opening of the Court, the Attorney General addressed the Court, as follows:

“May it please your Honors: It is my solemn duty to announce to the Court the death of ROYAL T. SPRAGUE, late Chief Justice of the Supreme Court of the State of California. At such a moment as this it is fitting that the achievements and virtues of the departed should be recapitulated, not only out of respect to the memory of the illustrious dead, but that we who live, after being reminded that the good that comes of a pure and honorable career, may be constrained to conform the order of our lives to so distinguished an example.

“Judge SPRAGUE was a native of the State of Vermont, from whence he went to the State of Ohio, where he studied the profession in which he afterward acquired so enviable

a reputation. In 1849, inspired by that courageous spirit which in our country ever looks toward the setting sun for fields of conquest, he sought this State, and from that time to the day of his death resided in California. In 1854-5 he represented the County of Shasta in the State Senate, and in 1867 was by the people elevated to the Bench of the Supreme Court. As a judge it is deservedly accorded to him that he was learned, industrious, and above the suspicion of any kind of prejudice; but above his reputation as a Judge, and above the honors conferred upon him by the State, towers the great purity of his life, and although evil besieged him on every side, as it has all humanity since the fall of man, it never made a breach in his honest heart.

"The members of the Bar, sensible of the loss they and the commonwealth have sustained, have met together and passed the following resolutions:

Resolved, That the members of this Bar are deeply impressed with the great loss which they and this community have sustained in the death of the Hon. ROYAL T. SPRAGUE, our late Chief Justice. The courteous dignity of his manners, the integrity of his mind, his love of justice, and the distinguished ability with which he ever discharged the duties of his high office, inspired all with sentiments of respect and admiration. The people of the State mourn his untimely death.

Resolved, That the Secretary of this meeting transmit a copy of these resolutions to the family of the deceased, and express to them our sincere sympathy in this their bereavement and deep affliction.

"In consideration of his services to the State, and the love and honor the people, the Bar, and his more immediate associates, the Justices of the Supreme Court, bear him, I pray that an order may be made that the resolutions just read be spread upon the minutes, and that the Court do now adjourn, out of respect to his memory, and as a tribute to his worth."

To the remarks of the Attorney General, Chief Justice WALLACE made the following response:

"In deep sympathy with the sentiments of tender regard for the memory of our departed brother SPRAGUE, which have found eloquent utterance in the resolutions of the Bar, the Court would add the expression of its heartfelt appreciation of the high personal qualities by which he was so preëminently distinguished.

"A prince and a great man has indeed fallen in our midst. California is called to mourn the loss of one of the noblest and most distinguished of her sons. Once and again, and now a third time in her brief history, the fell destroyer has entered her highest chamber of justice and draped it with the habiliments of woe—the emblems of mourning—for another of the Justices of this Court descended to the tomb.

"The man whose death has stricken the public heart with sorrow had been a citizen of California from a period anterior to the formation of the State Government, and had borne a prominent part in laying the foundations of her prosperity. Before his accession to the Bench, and at an early period in the history of the State, he had already become honorably identified with its most important interests. He had repeatedly filled, and with marked distinction, a seat in the Senate of the State, where his services, first as Chairman of the Committee on Finance, and subsequently as Chairman of the Judiciary Committee and President pro tempore of that body, had inseparably linked his name with a variety of public measures, in their character the most important and lasting in their influence upon the destinies of our then infant State. He was then in the meridian vigor of manhood—his eye was not dim nor his natural force abated; disease had not devoured his strength nor suffering racked his frame. The Journals of the Senate—the recorded history of its proceedings—emphatically speak his eulogy, and will in all time bear witness to the untiring industry, the marked ability, and, above all, the lofty sense of public duty by

which his career as a Senator was so strikingly signalized. The official journals will be seen to abound with reports submitted by him to the Senate, exceeding in their number, as well as in the variety and importance of subjects discussed, those of any one of the distinguished men with whom he was then associated in the public service, and betokening profound research and the most thorough investigation of questions agitating the public mind of that day. It was, doubtless, amid his duties in the Senate Chamber that he first acquired that intimate knowledge of public affairs—a familiarity at once comprehensive and minute—with questions of State policy, which he subsequently exhibited here, and which are often so useful in the solution of the subtle questions arising in the interpretation and construction of legislative Acts and the general municipal law of the State.

“His second Senatorial term having expired, he declined a reelection, and, retiring to his home in Shasta County, resumed the practice of the law, turning upon occasion from the pursuits of his profession to gather a flower in the field of literature.

“But, though retired from the Senate, SPRAGUE had not become inattentive to passing public events. Though he had declined to be any longer a Senator, he was still a citizen and bound to the performance of what he esteemed the great duties imposed upon him by that relation. His soul was too ardent, his nature too earnest, and his sense of duty too high to admit of inattention or indifference, upon his part, to principles asserted or measures projected, which he believed to involve the well-being of his country. It was therefore, and only therefore, that he was ready to enter the arena and do battle for what he deemed the right, and was willing to bear up to the standard which was the emblem of the principles he cherished, even though impending defeat and disaster were sure to overwhelm and trail it in the dust.

“When at a later period of his life he reached a seat upon this Bench, he brought to the discharge of its duties a spirit

of devotion which intense physical suffering and the painful attacks of a fatal disease could not wholly overcome—an industry unflagging in the investigation of legal questions; a rigid impartiality in the formation of his opinions, and a frankness and fearlessness in their assertion, when formed, which have never been surpassed. He never shunned responsibility when it came in the line of duty, but met it boldly, and in the spirit of the Divine command, 'be not faint-hearted when thou sittest in judgment.' No judicial officer ever possessed in a higher degree that absolute independence of soul which acknowledged accountability to none save God and his own good conscience for the motives by which his course here was actuated and determined. As a citizen in the walks of private life, a Senator and a Judge—everywhere and under all conditions—he steadfastly manifested an inflexible devotion to principle, and illustrated in his life and character the exalted maxim that 'Justice is, itself, the great standing policy of society.' His amiability was proverbial, even to absolute tenderness for the feelings and opinions of others. His urbanity and gentleness of deportment never deserted him; no feeling of impatience overcame him, even while disease of a peculiarly painful character was tugging relentlessly at his very vitals, sapping the well-springs of his life, and loading him down with a weight of physical suffering greater than the human frame could long withstand; he suffered in silence and without a murmur, and hoping against hope, bravely addressed himself to the discharge of his duty.

"In his death the world has lost a citizen who was an honor to human nature; the State a true-hearted son, ever devoted to her service; and we, with whom he was lately associated here, a brother warmly endeared to us by those high personal qualities which imparted a charm to the intercourse of social life and a pleasure to the discharge of official duty. But though departed, 'he is yet with us and in the midst of us. He hath not wholly died.' Though he will be seen no more of men on the earth, he will still live in the

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light of the great example he has left, and we and those who are to come after us in these seats may strive to emulate his virtues.

“In the bereaved family circle from which he has been taken, the vacancy must remain and the loss be irreparable. No garland which we could weave for his tomb, no incense we might scatter over his ashes can allay the grief of the widow and the fatherless, nor lighten the affliction which weighs down their hearts; but while we may not invade the sacred precincts of their sorrow, nor hope to assuage a single pang that is theirs, it may be a mournful satisfaction to them to reflect that his memory will ever live in the records of this Court of which he was so distinguished a member, and that the proceedings of this day will in all time remain a lasting—even though an imperfect—tribute to the spotless virtue and the exalted character of the husband and father they mourn.

“As a memorial of respect, affection, and regard for the memory of ROYAL T. SPRAGUE, deceased, the late Chief Justice of this Court, it is ordered that these proceedings be entered of record, and that the Court do now adjourn to Tuesday morning.”