

SUPREME COURT OF THE UNITED STATES

MONDAY JANUARY 5, 1903.

PROCEEDINGS ON THE DEATH OF MR. JUSTICE GRAY.

On the opening of the court Mr. Attorney General Knox addressed the court as follows :

May it please the court :

The bar of this court has requested me to present to you the resolutions recently adopted by it expressing its estimate of the life and character of the late Mr. Justice Gray, and its deep sense of bereavement occasioned by his death.

They are as follows :

“ The bar of the Supreme Court of the United States, deploring the recent death of Horace Gray, an associate justice of the court, would put upon record a brief memorial of their esteem and admiration for his judicial achievements, as well as for his qualities as a man. Therefore, be it

“ *Resolved*, That we of the bar are met together to pay tribute to the memory of an able lawyer, a scholar versed in the learning of the books, and a judge who never failed to uphold the dignity of his office. He did his work thoroughly and with scrupulous efforts to dispense exact justice.

“ *Resolved*, That the labors of Mr. Justice Gray, which have been constant and arduous, are deserving of the country's gratitude. He spared nothing of health or of strength. With patience he explored the sources of the law and gathered from the past much that proved of value in its application to the needs of the present. Of sound judicial instincts, he year by year visibly grew, alike in clearness of vision and in breadth of apprehension, until in these later days his ripened powers declared him to be a fit example of the strong and truly great judge.

“ *Resolved*, That we shall ever cherish a remembrance of the manly qualities of our deceased brother. Large of stature, vigor-

ous and firm in demeanor, it needed but a slight acquaintance with the real man to recognize in Mr. Justice Gray a generous, noble spirit, a pure-minded, brave, and Christian gentleman.

“*Resolved*, That the Attorney General be asked to present these resolutions to the court, with the request that they be entered upon the records, and that the chairman of this meeting be directed to send to the widow and family of the late Mr. Justice Gray a copy of these resolutions as an expression of our sympathy for them in the loss that they have been called upon to sustain.”

This just and temperate expression by the bar will be received, I am sure, with sentiments of full approval by the members of the court, to whom the death of Mr. Justice Gray is a personal grief, as well as by the profession and the people, to whom it is a most serious public loss.

The character and work of a judge are an open record to the world. They are impressed on judgments which survive the man, and may be imperishable. A great judge hearing contending arguments and settling their issues with convincing logic erects and leaves behind him a monument standing high in the public view. All men may know him and may estimate and speak of his labors. So men regard John Marshall, almost as if they had seen him and talked with him; and so those who did not have the privilege of intimate acquaintance with the living man might speak of Mr. Justice Gray.

He was born of the New England ancestry which has done so much to strengthen and adorn this nation—strong, self-controlled, intellectual, and aspiring. Such ancestry has produced faithful men, men of action and men of culture. Mr. Justice Gray, true to these inheritances, made early use of his advantages of environment and education. His career from his youth shows the steady advance in capacity of a man formed and trained to be a scholar, a lawyer, and a judge.

From his recognized position as a leader of the bar of his native State, he was advanced to be an associate justice and later to be chief justice of the supreme court of Massachusetts—the court which contributed the illustrious name of Shaw to the roll of distinguished American judges. In that court Mr. Justice Gray delivered many luminous opinions marked by the comprehensiveness, thoroughness, and learning which were characteristic of him, including leading ones on the law of charities, ancient grants and boundaries, contracts *ultra vires*, and the conflict of laws.

No eulogy is needed to bring before this court and bar the recol-

lections of the steadfast labors, profound learning, and ripe ability of intellect by which his judicial service to his country was here rounded out and completed. The opinions which he delivered reflect the robust vigor of his personality—the clearness of mind and firmness of will, the strength and purity of moral purpose, which were part of his nature. His unremitting industry, his high conception of duty, his accumulated erudition, his dignity of diction and of character, combined to make him a great jurist in all branches of the law. This court is required to explore the entire field of jurisprudence. Its jurisdiction is as broad as the range of human controversy, and Mr. Justice Gray has left fitting memorials of his capacity throughout its range—whether he deals with the technicalities of a statute, with constitutional or international law, with equity pleading, with admiralty, with the laws of property or of personal relations.

It is superfluous to comment particularly on his utterances for the court. The profession will not forget them. They will survive the passage of time and remain for the instruction and guidance of ourselves and of posterity.

In presenting these resolutions to your honors, on behalf of the bar I express the consciousness of loss to public life and service which Mr. Justice Gray's private life and character emphasize. The generosity and purity of his nature, the modesty and simple dignity which adorn worth, the courtesy of the gentleman—these qualities also marked his career and endeared him to those who were privileged to know him intimately.

I have the honor to move that the resolutions be entered upon the records of the court.

The Chief Justice responded :

It is difficult to express our sense of the loss the court has sustained in the departure of this eminent judge and dear brother.

The results of the labors of the court are announced from the bench, but the burden of its labors can be known only to those who participate in them. They only can know the value of aid in the discharge and alleviation of that burden. They only can know the closeness of the ties which bind the company of faithful workers together.

Speaking from that standpoint, it may be truthfully said of Mr. Justice Gray as he himself, when chief justice of Massachusetts, said in commemoration of one of his colleagues, that "every year

of association with him brought a greater reliance upon his counsel and a closer friendship."

And, portraying on that occasion the lineaments of another, he drew a striking likeness of himself as we knew him in our common consultations. This is the portrait:

"His minute and accurate observation of the facts, his thoughtful comparison of the arguments, his careful weighing and scrutiny of precedents, his nice appreciation of legal distinctions, his grasp of fundamental principles, his strength in presenting his own suggestions, and his candor in considering those of his associates—guided throughout by a love of justice, and tempered by common sense—made his presence a peculiar safeguard. In arriving at results that would affect the rights of his fellow-men no detail was so small as to be neglected, no field of investigation too wide to be explored. Very cautious in forming his conclusions, he was correspondingly tenacious of them when formed. He always wished the opinions of the court to be placed upon such grounds as, not going beyond what the decision of each case required, should afford a firm foothold in determining future controversies."

The description also measurably indicates the character of his judicial utterances.

It was observed of the judgments of Lord Cottenham, that he who read them felt that they "fixed the law on the matter in hand upon a defined basis for future years." The same impression is produced by many of the judgments of Mr. Justice Gray, while other judgments are confined, with keen precision, to the bare disposition of the particular case.

All excellent, his opinions in leading cases—and he made cases leading when he thought the occasion demanded—constitute permanent contributions to jurisprudence and imperishable monuments to his memory. They do not simply lay down rules for guidance. They are treasuries of doctrine and precedent. And in the time to come it will be found:

"Hither, as to a fountain,
Other suns repair, and in their urns
Draw golden light."

Mr. Justice Gray was preceded as the head of the supreme judicial court of Massachusetts by Lemuel Shaw; he was preceded on this bench by Joseph Story and Benjamin Robbins Curtis. Eulogy can rise no higher than the expression of the conviction that he will be ranked with them without appreciable interval.

For nearly forty years he was given grace to execute justice and to maintain truth, with the dignity and power befitting his great office, and he arrived at the resting place with unclouded mind and ready for the change. His lips are dumb, but the devouring Past cannot destroy the works which follow him.

The resolutions and accompanying remarks will be entered upon the records of the court.

