

DEATH OF JUDGE McLEAN.

Immediately after the opening of the court on Tuesday, December 3, 1861, Mr. BATES, the Attorney General, rose and said:

May it please your Honors:

I appear before you now not on my own motion, but on the request and by the authority of my brethren of this bar, who have desired me to say to you, in their behalf, a few words expressive of their feelings. And it is with an emotion of sadness, bordering upon melancholy, that I find myself constrained by circumstances to mark my first official appearance in this high court with the repulsive prestige of a bearer of bad news.

For the heart of man will sympathize with surrounding facts, and will (often unconsciously) associate ugliness and vice with the messengers of evil, and will, on the contrary, impute beauty and goodness to the agents and instruments of its pleasure. This is a sentiment known of old as a truth rooted in the human heart. "How beautiful," exclaims the holy prophet, "how beautiful, upon the mountains, are the feet of Him that bringeth good tidings that publisheth peace!" Oh! that to-day it were my delightful office to bring to you good tidings, and to publish to you peace.

But, unhappily, it is not so. Since the first organization of this court, no term has yet been held under circumstances so gloomy and sorrowful. I look up to that honored bench and behold vacant seats. Even this august tribunal, the co-equal partner in the government of a great nation, the revered dispenser of our country's justice, shares with us in feeling the common sorrow, and suffers in the common calamity. It is shorn of its fair proportions, and weakened and diminished in

its strength and beauty, by the present loss of one entire third of its component members. And where are the wise, learned, and just men who used to fill those seats? Gone from this theatre of their fame and usefulness, while all of us remember them with respect and gratitude, and mourn the loss of their valuable services. Two of them have been peacefully gathered to their fathers, and have left their fame safe and unchangeable, beyond the reach of malice, and secure against accident, embalmed in history, and hallowed by the grave. And one of them, in the ripe vigor of his manhood, and in the pride of a noble and highly cultivated mind, has been swept away from his high position by the turbulent waves of faction and civil war.

And this is not all. Your lawful jurisdiction is practically restrained; your just power is diminished, and into a large portion of our country your writ does not run, and your beneficent authority to administer justice according to law, is for the present, successfully denied and resisted.

I look abroad over the country and behold a ghastly spectacle; a great nation, lately united, prosperous, and happy, and buoyant with hopes of future glory, torn into warring fragments; and a land once beautiful and rich in the flowers and fruits of peaceful culture, stained with blood, and blackened with fire. In all that wide space from the Potomac to the Rio Grande, and from the Atlantic to the Missouri, the still, small voice of legal justice is drowned by the incessant roll of the drum, and the deafening thunder of artillery. To that extent your just and lawful power is practically annulled, for the laws are silent amidst arms. But let us rejoice in the hope that these calamities are only for a season; that the same Almighty hand which sustained our fathers in their arduous struggle to establish the glorious Constitution which this court has so long and so wisely administered, will not be withdrawn from their children in a struggle no less arduous to maintain it. Now, indeed, we are overshadowed with a dark cloud, broad and gloomy as a nation's pall; but, thanks be to God, the eye of faith and patriotism can discern the bow of promise set in that cloud, spanning the gloom with its bright arch, to foreshow the coming of a day of sunshine and calm, and to justify our hope of a speedy restoration of peace, and order, and law.

This much, may it please the court, I have ventured to say, as what seemed to me a fitting preliminary to the discharge of the duty imposed upon me by my brethren of the bar. Of course, all the members of the court know the fact that, since the close of the last term, their old and honored associate, Mr. Justice McLEAN, has departed this life, for all men take sorrowful notice when "a prince and a great man has fallen in Israel." But the members of the bar, in pursuance of a worthy custom, long established, and stimulated, no doubt, by their personal reverence for the virtues and the learning of the departed judge, have held a meeting and passed a series of resolutions, which they have done me the honor to confide to me, with the request that I would present them here and ask that they may be entered upon the minutes of the court as a memorial of their profound veneration for the dead, and for the high tribunal of which he was so long a worthy member. I shall not take the risk of marring the strength or beauty of the resolutions by attempting to recite them, or to comment upon them. Let them speak for themselves, for they speak well.

But I believe it is the custom here, and I hope it will not be unseemly in me to say a few words of my own about that virtuous man, who, though he is dead, still lives in his good works, and teaches by his bright example. I had not the honor of his intimacy, but I have known him personally for more than thirty years, and under circumstances which attracted and enforced my observation. I did not consider him a man of brilliant genius, but a man of great talents, with a mind able to comprehend the greatest subject, and not afraid to encounter the minutest analysis. He was eminently practical, always in pursuit of truth, and always able to control and utilize any idea that he had once fully conceived.

In short, he was a sincere, earnest, diligent man. And this, I suppose, is the secret of his success, the reason why his course through life was always onward and upward. I am informed by those who have had good opportunity to know him in all the relations of life—as a lawyer, a judge, an executive officer, a neighbor, a friend, a professing Christian—that, in their belief, all his duties, in every relation, were fully performed. As a man he lived a blameless life, and not blame-

less only, but sweet and attractive, by the habitual exercise of all those benevolent virtues which characterized and adorned his mild and gentle nature. And while he pursued with diligence every line of study which might serve to make him at once a blessing and an ornament to society, he looked steadily beyond this transient scene, knowing that this world is but a school of preparation for that eternity upon which his soul rested with undoubting faith. I think the outlines of his character may be sketched in a very few words. He was a ripe scholar; an able lawyer, as you, his brethren, must know; a bland and amiable gentleman; a strict moralist; a virtuous man; and, above all, a modest and unobtrusive Christian philosopher. It is not for us to judge of his final condition; but, as feeling and thinking men, when we view the spotless morality of his life, and the quiet meekness of his piety, we have good reason to hope that, even now, he is enjoying the rich reward of a well spent life, in blissful communion with the spirits of the just made perfect. This much, at least, we do know, that his life has been a blessing to many individuals and a great benefit to his country, and that, dying in honored old age, he has left behind him the sweet savor of a good name.

The Attorney General concluded by moving that the proceedings of the bar meeting referred to in his address be entered on the minutes of the court, and read the proceedings, as follows:

At a meeting of the members of the bar and officers of the Supreme Court of the United States, held in the room of the Supreme Court on Monday, the 2d day of December, in the year 1861, to adopt measures to testify their high appreciation of the character and public services of the late JOHN MCLEAN, the senior Associate Justice of said court, Richard S. Coxe, Esq., on behalf of the committee appointed for that purpose, submitted the following

Resolutions.

1. That the members of this bar and the officers of the court entertain a profound sense of the loss which, in common with the entire nation, they have sustained in the death of the late

Mr. Justice MCLEAN, so long known to the community, and in an especial manner to the profession, for his exalted legal accomplishments, the purity of his private character, and the eminent ability with which he discharged the duties of the high offices, judicial, administrative, and legislative, with which his name has been so long and honorably associated.

2. That we will wear the accustomed badge of mourning during the present term of the court.

3. That the Chairman and Secretary of this meeting transmit a copy of these proceedings to the family of the deceased, communicating, at the same time, the deep and sincere sympathy felt by its members in the affliction with which they have been visited by a wise and merciful Providence.

4. That the Honorable the Attorney General be respectfully solicited to present these proceedings to the Supreme Court, now in session, and to ask that they may be entered on the minutes of the court.

Mr. Chief Justice TANEY replied as follows:

The members of the court unite with the bar in sincere sorrow for the death of the late Mr. Justice MCLEAN. He held a seat on this bench for more than thirty years, and until the last two years of his life, when his health began to fail, was never absent from his duties here for a single day. His best eulogy will be found in the reports of the decisions of this court during that long period of judicial life, and these reports will show the prominent part he took in the many great and important questions which from time to time have come before the court, and the earnestness and ability with which he investigated and discussed them.

They are the recorded evidence of a mind, firm, frank and vigorous, and full of the subject before him at the time.

Before he occupied a seat on this bench, he filled the office of Postmaster General of the United States; and in that post displayed an administrative talent hardly ever surpassed, with a firmness of character, and uprightness of purpose never questioned. Words of eulogy are hardly needed in memory of one so widely known and respected, eminent in political as well as judicial life.

We deplore his loss, and join the members of the bar in pay-

ing due honor to his memory, and direct the motion of the Attorney General and the resolutions of the bar in relation to our deceased brother to be placed on record with this response from the court; and, as a mark of respect, we will adjourn to-day without transacting any of the ordinary business of the court.