

MEMORANDA.

DEATH OF CHIEF JUSTICE CHASE.

THE HONORABLE SALMON PORTLAND CHASE, late Chief Justice of this Court, departed this life on the 7th day of May, A.D. 1873.

On Monday, the 13th of October, 1873, the first day of the October Term, a meeting of the members of the bar of the Supreme Court of the United States was held at the Capitol, and was called to order by JAMES MANDEVILLE CARLISLE, Esquire; on whose motion the Honorable REVERDY JOHNSON was made chairman. On taking the chair, Mr. Johnson said :

GENTLEMEN OF THE BAR: Although it has been some months since the sad event occurred which brings us together to-day, our sense of the great loss which the court, the bar, and the country have sustained by the death of the late Chief Justice Chase is as deep as ever.

The loss of any eminent judicial State officer is always greatly to be lamented; but the death of the presiding Judge of the Supreme Court of the United States is more extensively felt and naturally more deplored. The jurisdiction of that high tribunal is so vast and comprehensive, embracing as it does questions which involve not only every variety of personal controversy between the citizens of different States and aliens and our citizens, but more or less, the respective rights of the States and of the United States, and which may at times affect our relations with foreign governments, that the death of one of its members is calculated to fill the public mind with more than ordinary solicitude. The tribunal is to pass upon the acts of the other two departments of the government when cases involving them are properly under judgment, and to decide authoritatively whether they have transcended their legitimate powers. It is also to adjudicate all questions of prize and maritime law; to construe treaties and all questions of public law that may be before them, and to decide conclusively the limits of their own jurisdiction. It has also frequently before it questions of commercial law, which affect, more or less, not only our own commercial community, but in many instances that class in other countries.

It is very obvious, then, that to a proper and enlightened discharge of these several functions an extensive range of legal knowledge—constitutional, domestic, and foreign—is absolutely necessary, as is also a fixed conviction in the public mind that these qualifications are connected with strict impartiality and perfect integrity. It is to the honor of our country

that these qualities have been illustrated from the organization of the court to the present time.

It would be out of place to refer to the associate justices who have constantly adorned the bench, and contributed so much to challenge for it the respect and reverence of the country, and to secure for it a reputation which is as firmly established abroad as it is at home.

As our late loss was that of the presiding judge, it is sufficient to pay a passing tribute to the memory of those who preceded him as well as to that of the late chief. It may with truth be said that no nation in the world has produced abler and purer judges than Jay and Ellsworth, Marshall, Taney, and Chase. The labors of Marshall and Taney, covering so many years of service, do, more and more, as time rolls on, command the admiration of the profession and of the country. Chief Justice Chase's term was so brief that the lawyer readily remembers the few judgments which he pronounced.

The ability of these judgments, the full knowledge which they display, and the admirable judicial style in which they were rendered, filled the professional mind not only with admiration, but with wonder. For many years he had ceased to practice the profession, devoting himself almost exclusively to the political contests of the day. His immediate labors before his elevation to the bench were, it is true, excessively arduous and evinced the greatest ability, but they bore little or no analogy to the subjects which he had to treat when he became the head of the tribunal. It was surprising, therefore, that at the very threshold of his duties, he exhibited a knowledge entirely adequate to their able and satisfactory discharge. The occasion will not permit me to refer particularly to any of his opinions, but I know you will not think me going too far when I say that, judging him by those opinions, he proved himself in all respects the equal of the great men who preceded him; and that his uniform kindness and courtesy to all the members of the profession commanded their esteem and regard.

I know that I may be pardoned for saying a word or two more. If leaving him as a judge, we refer to his private life, we find him every way worthy of commendation. As a friend, he was constant and sincere; as a parent, watchful and affectionate; and no persons will feel his loss more deeply than his immediate friends and his domestic circle. Their consolation is to be found in the exalted opinion entertained of him by all classes of his countrymen; and, above all, in the assurance that he died as he had lived, a Christian.

A committee was now named by the chairman, on motion, to draft suitable resolutions: Mr. CARLISLE being named as chairman of the committee. The committee having withdrawn, reported, after a short absence, the following resolutions, which were adopted:

SALMON PORTLAND CHASE, sixth Chief Justice of the United States, having departed this life since the last term of this court, the members of the bar and other officers of the court have assembled to testify their profound regret at the event and their high respect for his memory:

His opinions and judgments, as they are preserved in the official reports of the decisions of the court, attest his great ability and his devotion to the

duties of his high office. His long and distinguished career as a Senator and statesman, and the manner in which he conducted the important department of finance at a period of vital national importance are more appropriate to be commemorated elsewhere. It is as a judge only that we now recall him. The dignity which descended upon him from his illustrious predecessors lost nothing in his hands. His refined and cultivated mind, his unvarying courtesy, and his regard for the rights and feelings of others won the warm regard and attachment of all who came in contact with him, and the esteem, admiration, and respect of the bar continually and steadily increased during the eight years in which he presided over the deliberations of this high tribunal; therefore,

Resolved, That the members of the bar and officers of the court sincerely deplore the death of the late Chief Justice Salmon Portland Chase, and will affectionately preserve the memory of his many virtues and high qualities, and will wear the usual badge of mourning during the term.

Resolved, That the Attorney-General of the United States be requested to move the court to direct these proceedings to be entered upon the minutes, and that a copy thereof be transmitted to the family of the deceased Chief Justice, with the respectful assurance of the sincere sympathy of the members of this meeting.

At the opening of the court on Thursday, October 23d, Mr. ATTORNEY-GENERAL WILLIAMS presented the resolutions, and made the following remarks:

May it please the court, I have been charged with the sad duty of formally announcing to your honors the death of Chief Justice Chase, and of presenting, to be spread upon the records of the court, the resolutions of the bar touching that mournful event.

On the first day of last May, by the adjournment of this court for the term, he laid aside his official robes to seek that temporary repose which his arduous labors and bodily infirmities seemed to require, but in a few days thereafter, to the great disappointment and grief of his family and friends, he laid aside all that was mortal of his nature and passed to where the weary are forever at rest. While spring was revealing its new and beautiful forms of life upon earth, he was carried in the gentle arms of hope and faith to the new life of another world. To recount the public incidents of his eventful career upon this occasion would be to repeat what is as familiar as household words to the people of this country.

Suffice it to say, that as the governor of a great State, as a Senator in Congress, as a Secretary of the Treasury, and as Chief Justice of the Supreme Court, he was distinguished for great abilities and great devotion to duty. Conspicuous among his many claims to popular and lasting regard were his early, continued, and effectual labors for the universal freedom of man. His fame in this respect will be as enduring as the love of liberty in the hearts of the American people. To say that he administered the finances of the country through the late war of the rebellion, is enough to establish his pre-eminence and show his title to a nation's gratitude. Jay, Rutledge, Ellsworth, Marshall, and Taney, are the few imperishable names of the

great departed who have filled the chief seat in this court, and to those is now added, with new lustre to the galaxy, the name of Chase.

Posterity will know of him through his public services, but we his associates and friends, know and can appreciate as well his private virtues.

All the influences of his example were for good. He was above reproach in his relations to society. His physical proportions were in harmony with his high intellectual qualities. He was dignified and graceful in his deportment, and especially kind and courteous to members of the bar. His writings are remarkable for their clearness and force, and all who knew him know how instructive and charming he was in conversation. Physically, intellectually, and morally, he was all that a Chief Justice ought to be. Impelled by what has been called the infirmity of noble minds, he pursued with untiring zeal his lofty aims, and whatever else may be said of his aspirations, happily no one can say that they marred the excellence or purity of his personal character. Early in life he emigrated from New Hampshire, where he was born in 1808, and soon after became a citizen of Ohio, where, unaided by fortune or friends, he commenced his successful public career. Inspired by an ardor that spurned all obstacles he pressed onward and upward until he was exalted to the head of this high tribunal, a place that but few men can ever attain. Thence he has come down to his grave crowned with years and many honors. He leaves to his children and his country the record of a life—

Rich in the world's opinion and men's praise,
And full of all we could desire, but days.

To which Mr. Justice CLIFFORD, the Senior Associate Justice in commission, responded in behalf of the court as follows:

GENTLEMEN OF THE BAR:

Providence has ordained that man must die, and it is matter of solemn import to every reflecting mind that the sentence applies to the whole human family, without regard to station, attainment, or usefulness.

None of those who occupied these seats sixteen years ago are now here to participate in these commemorative proceedings, and only two of the number then in office survive to join in the general sorrow, so well expressed in the resolutions of the bar, for the great loss which the country has sustained by the death of the late Chief Justice of this court. Vacancy followed vacancy subsequent to that period, until the place of the Chief Justice and those of his associates were all filled by new appointments, and the junior of the immediately succeeding period, who was appointed to fill a prior vacancy, has become the senior Associate Justice of the court.

Great events in the meantime have occurred. State after State seceded, and the rebellion came and was crushed. Slavery

was abolished, and amendments were made to the Constitution to make it conform to that great change in the social relations of the States affected by the event. New laws were passed extending the jurisdiction of the court and vastly augmenting its labors and responsibilities.

Gratitude is due to Providence that the lives and health of the present members of the court have been preserved throughout that period and for the success which has attended their efforts, aided by the wise counsels of the late Chief Justice, in upholding all the safeguards of liberty ordained in the Constitution. Civil war raged for a time with all its demoralizing influences, but the court continued calm and unswerved, and the Constitution remains unimpaired to shed its benign influences upon the whole people of the country and to secure the blessings of liberty to the present generation and to their posterity.

Death has now again entered these walls, and, for a second time within the period mentioned, has removed the Chief Justice of the court. Such a loss is deeply felt by the whole country, and by none more heavily than by those connected with this tribunal. Whenever a good man dies, in any walk of life, there group around him in his last repose a mourning throng of sad regrets from the hearts of all who may have either experienced or witnessed his beneficence. But when, from some dignified and elevated station of public trust, obedient to the inevitable summons, a great and good man drops suddenly and noiselessly away, in the comprehensive sphere of whose high duties nothing remains but the solemn and suggestive silence of vacancy, a people's grief surrounds the grave to do justice to his motives and to award their saddened and affectionate approbation of his official services and public acts.

Difference of opinion, envy, or jealousy may have created barriers to a just appreciation of such a man during the active and angry struggles of life, but when the curtain of death interposes its impenetrable mystery between him and the living, that involuntary homage which human nature instinctively pays to its true noblemen, is almost always sufficient to hush such influences and override every such barrier.

Passions of the kind cloud the understanding and too often prevent any impartial judgment upon the life and character of a contemporary until the brief contentions of the world are left behind him and he has passed that solemn portal towards which

all human life is only the pathway. Influences of the kind sometimes affect even the public judgment and compel men at last to exclaim, "Our blessings brighten as they take their flight." Whether good or bad, the public man to whom, under a government of the structure of ours, has been committed the sacred duty of high public office, can ask no more, nor can his friends, than that those who desire to review his acts shall be governed by the inflexible standard of justice, looking to his motives and purposes as embodied in his acts, when properly construed in the light of the circumstances of his life and the nature, difficulty, and peril of his public duty.

Without a thought of anything so invidious as a comparison of merit, it may be safely said that of all the characters who were chief and prominent amid the swift and terrible commotions from which our country has little more than just emerged, none bore a more perplexing and onerous share of the public duty than the man to whose memory, more especially as its Chief Justice, the supreme judicial tribunal of the nation now pays its sad tribute of mourning and respect.

Called to preside over the administration of the national finance at a most alarming and painful period, when the past systems were manifestly inadequate to the enormous and unprecedented strain upon their resources, the energies of a comprehensive and creative mind were demanded to wield and shape the available wealth of the nation into such a channel that it should, to the largest extent possible, promote the development of the military and naval power of the country and give it the most efficient and direct support. Manifold difficulties attended the undertaking as the vital forces of the nation were suddenly wrenched from their accustomed pursuits of peace and were assembled at the call of the government, in the tumultuous arena of civil war, the immediate effect of which was to diminish very largely the ordinary national income and to increase fearfully the national expenditure. Immediate decision was indispensable, as the emergency would admit of no delay, and the requirement was not only that the reserved wealth of the nation should be evoked to meet the public emergency, but that it should be fused and melted into a current form.

With such demands upon the position our lamented brother was called to the office of Secretary of the National Treasury, not to administer a settled and tried system, but in the rapid

whirl and rush of swiftly succeeding events to devise one that was new and commensurate with the public exigency. Experiment may be tried in the hours of peace, and if experience fails to demonstrate the wisdom of the measure or exposes its imperfections, it may be abandoned or another may be substituted in its place without great injury to the government.

Not thus, however, when Secretary Chase was summoned to the performance of the great duty under consideration, as a failure might have been irreparable. Certain success was required, and the result shows that the duty was assigned to a strong, sagacious, practical intellect, which readily apprehended the nation's capacity, and was able to grasp the national wealth with a firm hand and appropriate it to meet the stern and inexorable demands of the public emergency. Complete success followed, and it would seem to be a sufficient commentary upon the usefulness of any man to be able to say of him, that under such momentous and inflexible conditions he could and did devise a system of finance which was commensurate with the unexampled demands upon the national treasury.

Wide differences of opinion exist as to the wisdom of the system as a permanent one, but this is not the occasion for a discussion of the system, nor is such an examination necessary to a correct view of the mental and moral condition of its author, as it is rather from the survey of a long and earnest life of public service and the diversity of the labors to which his powers of mind were so nobly and successfully devoted that the inquirer is enabled to draw the most correct conclusions concerning his worth and capacity.

Superior fitness for a particular station is frequently the result of experience in the performance of the same or similar duties, and the mistakes resulting from the want of such qualifications have proved that they can hardly be too highly estimated, but we know that there are some few in every generation to whom are vouchsafed an intellectual elevation that enables the possessor almost instinctively to comprehend many of the perplexities of life, for the unravelling of which by others must be paid the hard tuition of patient toil and study and long investigation. Sagacity and forecast, when such gifts are possessed, supply to a large extent the usual demand for an acquaintance with the duties of the particular station or for an extended preliminary preparation for their performance.

Gifts of the kind in a high degree were possessed by the sub-

ject of these remarks, as shown throughout his public career as Governor of a great State, Senator in Congress, Secretary of the Treasury, and Chief Justice of this high tribunal. Mere versatility of mind could not have so honorably met the demands of these high positions. Success in so various and such important labors, without much opportunity for previous preparation, furnishes indubitable evidence of a strong and vigorous mind and a high order of intelligence, which enabled the possessor to analyze and comprehend many things with ease and facility, which a mind of lesser grasp would only have pushed further off with every attempt to encompass and expound.

Opportunity for preparation in legal knowledge he did have in his early manhood. Prior to the time he entered public life he was engaged in the practice of the law, and became eminent in his profession, as sufficiently appears in the volumes of the published decisions of this court; and he was eminent as the Governor of his adopted State, and as a Senator in Congress before he was called to preside over the national treasury, until it may be said, if the period of eight years during which he was the Chief Justice of this court be included, that he has exemplified his greatness in almost every variety of trial which arises in civil life.

Difficult and untried questions were constantly arising during the early stages of the late rebellion, and none will deny the eminent usefulness of the Chief Justice in solving the difficulties, or call in question his sagacity or forecast in respect to the effect and termination of that unhappy conflict, as it is within the recollection of many that he was able to look beyond the mist of civil agitation, and even through the darker and more frightful cloud of civil war, and to see nearer and nearer every hour the approaching dawn of a day under whose light all those threatening aspects would be dispelled.

Difference of opinion cannot exist as to the variety or importance of his public services, but it is a mistake to suppose that purely intellectual efforts are in every case the unfailing index of the greatness of a man, or that they always furnish the correct means of estimating the value of his public services; as such efforts, though great, may be accompanied by such vices of heart and defects of disposition as greatly to lessen or even destroy their influence in such an estimate. Purity, impartiality, love of justice, and respect for public and private rights are essential elements of greatness in a public man, and in every

such respect the character of our deceased brother challenges our highest admiration. His respect for public and private rights is universally acknowledged, and neither envy nor malice ever called in question the purity of his life or his impartiality in the performance of his public duties.

Throughout his career as Governor, Senator in Congress, and Secretary of the Treasury, he always manifested a love of justice, and the same trait of disposition and character is evinced in all his judgments, whether rendered in this court or the Circuit Court. We all know with what diligence and patience he investigated litigated questions, and how willing he was to review or even to surrender his own opinion in order to be right at last.

Men find it easy to review others, but much more difficult to criticize and review their own acts, and yet that is the very summit to which the upright judge should always be striving. Judges sometimes surrender with reluctance a favorite opinion, even when condemnation confronts it at every turn, and they find it wellnigh impossible to yield it at all when it happens to harmonize with the popular voice or is gilded with the rays of successful experiment.

Pride of opinion at such a time is too apt to predominate over a love of justice, but it was exactly under such circumstances that the late Chief Justice was called upon to review as a judge one of the most striking and conspicuous of his acts as the guardian of the national treasury at a moment when the fate of the nation so much depended upon its correct administration.

Great success attended the financial scheme when it was adopted, and time had secured for it an extensive approval, as the war of the rebellion was victoriously ended and the national wealth was rapidly increasing. Circumstances better calculated to foster pride of opinion cannot well be imagined, but the Chief Justice, who had so creditably met the demands of duty in such a great variety of other responsible positions, did not hesitate to apply his best powers to the task of reviewing the measure in question, and finally recorded his opinion that it was not justified by the Constitution.

Judges and jurists may dissent from his final conclusion and hold, as a majority of the justices of this court do, that he was right as Secretary of the Treasury, but every generous mind, as it seems to me, should honor the candor and self-control which inspired and induced such action.

During the rebellion probably no one mind could have successfully met all the requirements of public duty which the exigency presented, as the country had a war to wage, a Union to preserve, and a Constitution and government of laws to uphold and maintain, for which purpose a conservative judgment in the judiciary was wellnigh as essential as the courage of the soldier, or the wisdom of the executive, or the patriotism and forecast of Congress. Heavy responsibilities rested upon all, and it was fortunate that the Supreme Court, throughout a large portion of that period, enjoyed the benefit of the wisdom and forecast of the late Chief Justice.

Defects he doubtless had, but he had a calm, composed mind, in whose placid depths the bewildering events of the national conflict were wisely and clearly reflected, and in most cases correctly exhibited to the otherwise perplexed comprehension of many other persons. Clearness, repose, and depth characterized his intellect. Few men were better able to analyze the events of that period as they occurred, and to foresee with more unerring accuracy their effect upon the future welfare of the country when the conflict should end; and it is to these rare, great attributes of mind that the inquirer must turn if he would understand how it was that he was able to discharge with such success the duties of Chief Justice after years of such diverse employment and without much opportunity of preparation, except what he acquired in those employments and in his early practice. Revered and conspicuous names had previously filled that station, but it may be said, without fear of contradiction, that our departed associate was a fit successor of Marshall and Taney.

Summoned, as he was, to the station of Chief Justice of this court from a life largely spent in the executive, legislative, and administrative departments of the public service, surprise may well be felt at his great success as a judge, especially in view of the events which transpired within the period he held the office, and of the great importance and exceptional character of the judicial duty he had to perform. Numerous cases presented for decision within that period involved questions of prize and the exposition of the law of nations or the application of the laws of war, and many others have respect to the rights, obligations, duties, and privileges of citizens, and it is for that reason as well as others that they will ever be regarded as of great value to the public as well as to the legal profession.

But it would be a great error to suppose that the Chief Justice entered upon his high office with partial qualifications for its important duties. On the contrary he brought to the office a profound and comprehensive mind, familiarized with almost every variety of public duty, and matured, strengthened, and developed by a long and most instructive experience. He was deeply versed in the great principles of jurisprudence, and upon his accession to the bench bent all the energies of his powerful mind to a mastery of the peculiarities and history of Federal judicial decision. His faculties were eminently adapted to the comprehension of legal science, and so readily did he solve controverted questions of private right that the principles of law and equity seemed almost inherent in his nature.

Appointed, as it were, by common consent, he seated himself easily and naturally in the chair of justice and gracefully answered every demand upon the station, whether it had respect to the dignity of the office or to the elevation of the individual character of the incumbent, or to his firmness, purity, or vigor of mind. From the first moment he drew the judicial robes around him he viewed all questions submitted to him as a judge in the calm atmosphere of the bench, and with the deliberate consideration of one who feels that he is determining issues for the remote and unknown future of a great people.

Throughout his judicial career he always maintained that dignity of carriage and that calm, noble, and unostentatious presence that uniformly characterized his manners and deportment in the social circle, and in his intercourse with his brethren his suggestions were always couched in friendly terms, and were never marred by severity or harshness. Even when disease had shattered his physical strength and written its effect in deep and haggard lines upon his countenance, it was unable to rob him of his accustomed air of grandeur, which was merely the outward expression of an elevated and noble nature. Disease, however, overpowered his strength and he has closed his life, rich in honor and highly rewarded by the affection and respect of his countrymen. He died with the armor of duty on, wearing the honors of a great and conscientious magistrate.

Since death was inevitable, the highest affection could scarcely desire a more fitting departure from the scenes of earth, as he had rounded an arduous and useful life with a period of eight years of most delicate and important service as Chief Justice of the Supreme Court of the nation, having accomplished a long,

consistent, and successful public career, and closed it with the honorable exercise of the highest attributes of the human judgment.

Difficulties at all times attend the responsibilities of the Chief Justice of this court, but it should be remembered that the subject of these remarks was called to that elevated station during the most stormy and angry period of our national history, and it is praise enough to be able to say that he met all those exigencies with a calm and conscientious sense of duty, and such, in my judgment, will be the verdict which the present generation will transmit to posterity; to which, permit me to add, that the justices of this court have lost a revered companion and the public a great magistrate and an upright public servant. Our loss is great, but the loss of his children and grandchildren is much greater, and to them we tender our sincere sympathies.

The court cordially concurs in the resolutions of the bar as presented by the Attorney-General, and direct that the resolutions, together with the proceedings of the bar and the remarks of the Attorney-General and of the court, be entered in the minutes; and the court, from respect to the memory of the deceased, stands

ADJOURNED UNTIL TO-MORROW AT TWELVE O'CLOCK.

DEATH OF MR. JUSTICE NELSON.

THE Honorable SAMUEL NELSON, late an Associate Justice of this court, who, on account of advanced age, retired from this bench on the 1st of December, 1872, departed this life at his residence in Cooperstown, New York, December the 14th, 1873, in the 82d year of his age. Upon receiving intelligence of his death, on the following day, this court, in consideration of his long association with it, and of his eminent public services, adjourned without transacting the ordinary public business.