

IN MEMORIAM:

CORYDON BECKWITH.

PROCEEDINGS HAD IN THE SUPREME COURT OF ILLINOIS, AT OTTAWA,
ON THE 21ST DAY OF OCTOBER, 1890, BEING OF THE
OCTOBER TERM OF THAT YEAR.

The Hon. CORYDON BECKWITH, formerly one of the Justices of this Court, died at Chicago, on August 18, 1890. At the October Term, 1890, held at Ottawa, on the 21st day of October, the following proceedings were had, the following members of the Court being present: JOHN SCHOLFIELD, Chief Justice; JOSEPH M. BAILEY, ALFRED M. CRAIG, BENJAMIN D. MAGRUDER, DAVID J. BAKER, SIMEON P. SHOPE and JACOB W. WILKIN, Justices.

HENRY S. MONROE, Esq., addressed the Court:

If your Honors please—The duty has devolved upon me, as a member of the Chicago bar, to present to this court the memorial adopted at its meeting held in honor of our brother, and former associate justice of this court, the Hon. CORYDON BECKWITH. With the permission of the court, I will read the memorial:

“We, the members of the Chicago bar, have learned with profound regret of the death of our brother, the Hon. CORYDON BECKWITH, and, prompted by our regard and affection for him, have met to give ex-

pression to our feelings, and record our estimate of his abilities as a lawyer and a jurist, his character as a man and a citizen, and his qualities as a friend.

"He was born, reared and educated in the State of Vermont, and there commenced the practice of his profession. He came to Chicago in 1853. The State was new, its population small, and our city hardly more than a thriving frontier town, and the great questions upon which their prosperity depended, to a large extent remained to be settled. Few men, from natural powers of mind or education, were better fitted to comprehend them, and their bearings upon the prosperity of our city and State, than he. He was a man of great physical strength, of a strong and vigorous mind, of amazing powers of labor and investigation, and of a wonderful memory, particularly for elementary principles. He had most carefully studied the fundamental principles of our jurisprudence, had traced the current of the common law from its source, and clearly understood what it had done for the English race. In tracing that history, he was led to the investigation of the origin of our equity jurisprudence, studied its development, and mastered the principles of civil law which lay at its foundation and had inspired and instructed its chancellors. He studied the departures from the common law which had taken place in this country, either from changes of condition or by force of statutes, and the additions to equitable jurisdiction caused by changes in the methods of business, by inventions, the introduction of steam, and the great corporate enterprises which followed. Hence he brought to the investigation of the great questions which arose during that marvelous period of growth and development which followed his settlement here, a power of mind and profundity of knowledge surpassed by none in the State or Nation.

"It is impossible in this memorial to give even a brief synopsis of his life and work in Chicago; but it is proper to state, that no man in Illinois has occupied a more honorable and conspicuous position as a lawyer, or had greater influence in molding and developing the jurisprudence of the State, than he. No one has more ably represented his clients, or to a greater extent commanded the admiration of the bench and bar. He was devoted to his profession, and cared nothing whatever for social notoriety or official position. He had all the qualities requisite for a great jurist, loved the consideration of legal questions, and during the short period he was on the bench of our Supreme Court,

showed marked ability and exerted great influence; but he was glad to leave it and resume the practice of his profession. He determined all questions submitted to him, not controlled by statute, upon principle, and paid little attention to decisions, knowing that no two cases are alike, and believing that if he had determined rightly he could convince the tribunal which was to decide. Hence he devoted more labor to the investigation of the facts, the relations of the parties to them and to each other, than to the law of his cases. The decisions of the great judges and chancellors of England, which helped to form and had become a part of our jurisprudence, and of the great judges and chancellors of our own country, who graced the bench during the formative period of our institutions, and taught the people of this free nation that the laws derived from monarchical England were sufficient, under our constitution, to decide all questions involving individual or property rights, had been carefully studied, and were familiar to him, and aided in the conclusions to which he arrived. If he believed he was right, the fact that decisions could be found against him never discouraged him or changed his course, and the fact that there was no precedent for the course he was going to take never prevented his taking it.

"In the management of important and complicated cases, where large interests were at stake and combinations necessary, no man could plan more quickly or correctly, or with more unerring judgment call to his aid lawyers exactly fitted to do what was required. He was in his profession what a great commander is in an army. He was not perhaps considered, and did not wish to be considered, a great trial lawyer; yet few men ever managed important and complicated cases before juries with more skill or greater success than he. He was most careful and laborious in his preparation for trial. He generally managed to get the confidence of the jury by his able and candid manner of stating his case. He was shrewd and careful in marshaling and presenting his evidence, and his great powers of analysis, and his straightforward, logical and forcible reasoning, generally enabled him to carry away the verdict from more brilliant advocates.

"His distinguishing characteristics as a lawyer were a strong and vigorous mind, great powers of thought and investigation, good common sense, an intuitive judgment which enabled him to grasp the controlling features of his case, great powers of condensation and extraordinary fertility of resource, a profound knowledge of the prin-

principles of law and equity, and an ability to apply them to the new questions growing out of the ever-changing methods of advancing civilization.

"While he never sought official position, he was frequently called upon to aid his friends when in political straits, and not a few of them have owed their high positions to his suggestions and advice. He was most kind and considerate to the young and inexperienced in his profession, and would at any time stop his work to give them aid or advice, or, what was sometimes better, words of encouragement. He was in every respect a great-hearted man, and those to whom he became attached could at any time, day or night, command his services or his means in any honorable way. Ever kind, courteous and obliging, he rarely provoked anger or incurred enmity, and those who knew him well will long remember his great qualities of head and heart. He cared nothing for money as money, or for wealth as wealth. A poor man with ability and character was more to him than the possessor of millions, if acquired by questionable means,—and means were to him questionable which are not infrequently adopted by and receive the sanction of those who profess both morality and religion. He was unselfishly generous to a fault, and not infrequently embarrassed himself to aid others, and never seemed to realize the value of money except so far as it could be made to contribute to the happiness and welfare of his family and friends.

"A great lawyer and jurist has gone from our midst. A great heart has ceased to beat. The last act of generosity and kindness on the part of our brother has been added to the long list preceding, the ties of friendship binding on this side of the grave have been broken, and we, his brethren of the bar, can only remember his great qualities, mourn his death, and place upon the records of the courts which he honored by his presence and instructed by his wisdom, this imperfect tribute to his memory."

Mr. MONROE continued:

Standing in this forum, in the presence of this high tribunal, of which our brother was once an honored member, in a place which has witnessed some of his greatest triumphs, to pay to him our last tribute of respect and honor, it is meet and proper that something be said of his life, his character and his work. The memorial just read, in fitting

terms gives expression to his leading characteristics, and standing as a lawyer and a man. I shall only add what long acquaintance and intimate friendship with and absolute knowledge of him seem to render proper.

Judge BECKWITH was born and educated in the State of Vermont. He sprang from vigorous parentage, his father being a man of great natural ability and powerful physical organization. He received a liberal education, being a good Latin and French scholar, but never had the advantages of a collegiate training. He must have had a most thorough legal education. He was admitted to the bar of his native State, and in a short time came to be regarded as one of its most promising young lawyers. To him, as to most young men of ability and enterprise at that time, the great West seemed to offer opportunities not to be found in New England, and, in 1853, we find him entering upon his life-work in Chicago. His great abilities soon became known, and at an early age he came to be regarded as one of the leading lawyers of the State.

In January, 1864, he was appointed by Governor Yates judge of this court, to fill a vacancy caused by the resignation of Judge Caton. It was then composed of but three judges,—Sidney Breese and Pinkney H. Walker, men of great experience and learning, being the associates of our brother. Although comparatively young, he commanded the admiration, respect and confidence of his associates, and his ability as a jurist became well known to the bar of the State. He served the unexpired term of Judge Caton, which ended six months and five days from the time he entered upon his duties. Within that period a large amount of work was done by this court, and his opinions are to be found in the 33d, 34th, 35th and 36th volumes of the Illinois Reports. His work during that brief period demonstrated his ability as a jurist and his learning as a lawyer. When it ended he was glad to return to his profession, and it was there that he acquired his great reputation and achieved his most brilliant success.

He came to Chicago in 1853. I came shortly after, and early formed an acquaintance with him. We became intimate friends, and from that day to the day of his death nothing occurred in the least to diminish our regard for each other. Few, if any, have had better opportunity to know him well in all the relations of life. I have met him at his family

fireside, in his library, in the consultation room; have traveled with him; have been opposed to him in many important cases; in cases at law, the trial of which lasted from one week to thirty days; in chancery cases lasting from one to three weeks; have been associated with him in a number of important cases, in the preparation of one of which we worked continuously for two nights and one day; and have been witness to his marvelous powers of endurance, his wonderful memory, his familiarity with the principles of law, his fidelity to the interests of his clients, and his great ability in the conduct and management of the interests committed to his care.

There was never a more courteous, magnanimous or knightly adversary, or a more kindly or agreeable associate. When an adversary, he was alert, careful, and understood his case in all its bearings, was rarely surprised, was wonderfully able, but was always candid and honest with the court, and realized his obligation as one of its officers. As an associate he was patient and generous, always ready to do his full share of the work, never arbitrary or opinionated, and always ready to second and urge a position of his associate as though his own. He would sometimes listen to and carefully consider a suggestion or a remark made during the progress of a case, and, if of any possible value, might frequently refer to it with a view of eliciting further discussion or comment.

I once knew him, in a very important case in which we were associated, for days, every time we met, whether at lunch or for the purpose of consultation, laugh at, and in his quiet way ridicule, a suggestion I had made as the only possible way to meet an emergency we hoped to avoid. When the emergency came, we were beaten on the ground we had taken. He then at once dictated to a stenographer one of the most absolutely perfect bills in chancery I ever read, adopting the suggestion he had ridiculed, showing he had given it the most careful and thorough consideration. The bill was ready in an hour, was at once filed, and a motion made for an injunction, based solely on the allegations contained in the bill. The case was most important. It involved not only large pecuniary interests,—all our client possessed,—but his reputation and position as a business man. The course adopted was without precedent. On the bill we moved for an injunction. The opposite side was represented by Mr. Dent and the late George Campbell and Judge Lawrence. When the motion came up, Judge BECKWITH

opened the case. He rested it upon fundamental principles, cited no authorities, only read one short extract from a decision of one of the greatest of English chancellors, but in a most masterly manner stated the origin and reviewed the history of equitable jurisdiction applicable, in his judgment, to the case; and proceeding step by step, stating principle after principle, and their application to the new conditions caused by the changing situation of men and their methods of business, he constructed an argument which amounted to almost absolute demonstration. The lawyers present, his distinguished adversaries and the presiding judge, sat spellbound and amazed for about two hours. Not a note or memorandum was before him. His manner was most majestic and imposing, his voice was clear and ringing, and, except when he read the one extract, his eye was on that of the presiding judge. I have heard Charles O'Connor, Nicholas Hill, Conkling and Carpenter in some of their greatest cases, but that was the ablest legal argument I ever heard. The late T. Lyle Dickey was present, and said he had never listened to its equal. The injunction was granted, and our client restored to his property and his rights.

I refer to this case because it illustrates our brother's great power in dealing with elementary principles, and the readiness and gladness with which he was always ready to receive and adopt any suggestions of his associates which could be made available.

Early in the seventies he was appointed general solicitor of the Alton road. Since then I have been employed by and associated with him in very important matters, and the conduct and trial of many important cases. Before calling to his aid assistant counsel in important matters, he generally mastered the facts, and would present them in the most clear, lucid and logical manner, without in any way indicating his own opinion of the law of the case under consideration until he had obtained the opinion of the man he was consulting, and the reasons for that opinion. He was in no way opinionated or overbearing. If he disagreed with his chosen associate he carefully presented his views, and if there was no haste, he would say: "You have my views, I have yours; let us think the matter over, boil it down, and see what we think when we next meet." On such occasions it never displeased him to have his own opinions questioned, but he always liked, on the part of his associate, entire and absolute frankness and candor.

No general solicitor ever discharged the duties of that responsible position with greater fidelity to his clients, with more legal ability, with more profound knowledge of the relations of a public corporation to the public, or better understood the business principles by which its offices should be governed. His management of one matter will explain what I mean. The Sag bridge disaster is familiar to all. The terrible loss of life and frightful personal injuries resulting from that calamity were caused by the carelessness of the employes of the road. He sent for me. I never saw him so profoundly agitated. He could hardly control his emotion; his great heart bled for the unfortunate sufferers and the families of the dead. He said: "You must help me through this. A hospital must be procured and fitted with everything necessary, the best medical service possible must be engaged, nurses sufficient to attend to the wants of all must be secured; all the money necessary is at your command; leave nothing undone which can contribute to the comfort and welfare of the injured." All this was done. The injured were not only provided for in the best way possible, but the representatives of every person killed who had a family were paid \$5000 and the expenses of the probate court; to the representatives of those unmarried, from \$3000 to \$5000, according to their family connection; and to those injured, sums which were satisfactory to themselves and their friends. It was perhaps fortunate, for it was certainly agreeable to him, that the president of the road, Mr. Blackstone, accepted every suggestion he made.

I refer to this to show his great heart,—that he was naturally broad-minded and liberal, and capable of comprehending and acting upon the right and justice of matters submitted to him. He recognized the fact that the general solicitor owed a duty to those dealing with the road, and had no moral right to delay a just claim or permit litigation in order to secure a cheap settlement. If he could be convinced that a claim was just, it was immediately settled by the payment of what was right, and not infrequently by the payment of more than he thought was right; but if, after careful investigation, he believed a claim fraudulent, he would spare no labor or expense to defeat it.

Few men have been more devoted to their profession—he lived in it and for it. There was nothing superficial about him or his methods. The letter of the law or the rule meant little to him. The principle which lay at its foundation,—the reason which originated it,—alone

satisfied his mind. He was familiar with the writings of the great exponents of the law of all civilized nations; with the writings of the great moralists, from Confucius down; with the principles of the civil law and the Code Napoleon; and had gathered in his mind the treasure of knowledge flowing from all the great fountains of jurisprudence. He gave little attention to the decisions of courts in the investigation of his cases. He first learned the facts, then brought to bear upon them the power of his reasoning, to determine where lay justice and right. He then had little difficulty in satisfying himself as to the law. This made him truly great as a lawyer, and gave to his opinion a value exceeded by those of no man in the Nation. His labor was constant and unremitting. He never ceased to be a student. He was almost a martyr to his profession. He gave to it his time and his strength. For it, he neglected recreation, proper exercise and relaxation, and took upon himself the cares and anxieties of his clients. In this way he passed his long professional career, undermined his powerful physical organization, and was called to his rest at a time when, but for this, he might have been in full possession of all his powers, mental and physical.

From the commencement of his career in our State he commanded a valuable clientage, and rapidly rose to the summit of his profession. In my judgment, as a lawyer, pure and simple, he had no superiors in the Nation. With no expensive tastes, unostentatious and simple in his habits, and always in the receipt of a large professional income, he accumulated no fortune. The reason for this is to be found in the unselfishness and generosity of his character, and the fact that in serving his clients he lost sight of his own pecuniary interests. Riches or money had no charm for him except as it could be made to contribute to the welfare of his family, his friends, and, last of all, himself; and his thoughts were never given to its accumulation. Standing, as he did, at the head of his profession, he was constantly consulted by his brethren at the bar, and, without compensation, expended in this way more time than any man I ever knew. To the young he was ever most kind and considerate, and very many are indebted to him, not only for advice, but for advancement in their profession. He was always kind and courteous to his adversaries and honest to the court, and few men ever lived in Illinois who had fewer enemies or more friends.

A big hearted man and a great lawyer has passed away. To his family and his friends, to his brethren at the bar, and to the courts of the country, he has bidden an eternal farewell. Nevermore in this chamber, nevermore in the courts of this State or Nation, will his voice be heard; but the city he loved, his adopted State, his children and our children, and their descendants, will reap the benefits of his labors in the influence he has exerted in moulding and developing the jurisprudence of our State.

I move that the memorial be received and placed on record.

Judge J. R. DOOLITTLE, in seconding the motion, said:

May it please the Court—I rise, not to add anything to the bar memorial, or to the eloquent eulogy just pronounced by my brother Monroe upon the late Judge BECKWITH. I rise simply to second the motion to spread them on the records of this honorable court, as a just tribute to the memory of that great lawyer and great man. My personal acquaintance with him began in 1856,—about the beginning of that great epoch in our national history during which it was my fortune to be brought into association, in public and in private life, with many of the men whom the world calls great,—presidents, judges, generals, statesmen, senators and representatives,—and among them all I do not recall one who, in mental capacity and intellectual force, was the superior of CORYDON BECKWITH.

Mr. Chief Justice SCHOLFIELD, on behalf of the Court, responded:

This expression of opinion by the members of the Cook county bar of the abilities and worth of the late Judge BECKWITH as a man and a lawyer, has the cordial concurrence of the members of this court. It is, as we believe, truthful, just and ample.

When Judge BECKWITH took his seat upon this bench, although he was then a comparatively young man, he had acquired throughout the State a reputation for legal ability and learning unsurpassed by that of any other lawyer at our bar, and his published opinions, during the time that he remained here, prove that he well deserved that reputation. For precision, clearness and force, those opinions have not been, nor will be, surpassed.

The relations of Judge BECKWITH, as a practicing lawyer, with this court, were uniformly of the most agreeable character. He was always courteous and respectful in discussion, whether in oral or in written arguments; whatever the provocation, he indulged in no offensive epithets or ill-natured criticism at the expense of the court or any of its members. He relied upon his ability to make that clear and manifest to the court which he believed to be right, and, trusting in the honesty and courage of the court, he was satisfied that it would always readily correct any error within its power to correct, when kindly pointed out. He impressed himself upon the court as its friend, and so he was always listened to by the court with interest and pleasure. To us his death is a personal loss, since no court ever did or ever can obtain a high standing for ability without the assistance of an able, learned and upright bar.

The request is granted, and the memorial will be spread upon our records, and published in the current volume of our Reports.

REPORTS
OF
CASES AT LAW AND IN CHANCERY

ARGUED AND DETERMINED IN THE
SUPREME COURT OF ILLINOIS.

NORMAN L. FREEMAN,
REPORTER.

VOLUME 133.

CONTAINING CASES IN WHICH OPINIONS WERE FILED IN OCTOBER, 1889,
JANUARY, MARCH, MAY AND JUNE, 1890, AND SOME CASES
IN WHICH APPLICATIONS FOR REHEARING WERE
DENIED AT THE OCTOBER TERM, 1890.

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