

IN MEMORIAM:  
PINKNEY H. WALKER.

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PROCEEDINGS

HAD IN THE SUPREME COURT OF ILLINOIS, ON THURSDAY, THE  
13TH DAY OF MARCH, 1885, AT OTTAWA, BEING OF  
THE MARCH TERM, 1885.

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The Hon. PINKNEY H. WALKER, one of the Justices of this court, died at his home in Rushville, on the 7th day of February, 1885.

At the March term, 1885, of the court, held at Ottawa,—on Thursday, the 13th day of March,—the following proceedings were had, the full Bench being present: JOHN SCHOLFIELD, Chief Justice, and T. LYLE DICKEY, JOHN M. SCOTT, BENJ. R. SHELDON, ALFRED M. CRAIG, JOHN H. MULKEY and DAMON G. TUNNICLIFF, Justices.

The Hon. EDWIN S. LELAND addressed the court:

*May it please the Court:* In compliance with the request of my brethren of the LaSalle county bar, I present to the court the following resolutions of respect for the memory of the late Judge WALKER, which they have adopted:

"The intelligence of the death of Mr. Justice PINKNEY H. WALKER, received by the bar of LaSalle county, has cast a shade of sadness upon its members, and aroused feelings of the deepest regret and sorrow for the loss of an eminent jurist, an honorable citizen, and a pure and just man. Therefore, the members of this bar have met to express their high esteem of him as a member of the legal profession, their sincere regard for him as a pure and upright man, and their appreciation of his great services to the State.

We have long been familiar with his earnest, incessant and untiring labor, and his deep solicitude for the purity and integrity of the judicial department of our State, in the discharge of the duties of his high office. In that exalted position, so long, so ably and so honorably held by the departed jurist, his faithful, conscientious and impartial performance of the important official trust placed in his charge has endeared his name and memory to our profession and to the people of our State. Therefore, be it

"Resolved, That in common with the legal profession throughout the State, we deeply deplore the loss sustained by his death, and hereby give expression to our sentiments in a few words of reverent affection for his memory, and sympathy for his family in their bereavement.

"Resolved, That the sentiments herein expressed be communicated to the family of the deceased, and that we present the same to the Supreme Court, the Appellate Court of this district, and the several courts of this county, with the request that they be entered upon the records of said courts."

I will also add a few words to those which have been and which will be appropriately used by others upon this sad occasion.

It was my good fortune to have been acquainted with the deceased, more particularly during the earlier portion of his long service as judge of this court. I first saw him at the next term held here after his appointment to succeed Judge SKINNER, in 1858. From that time until 1866 I knew him very well; after which time, by reason of my becoming, by appointment, and subsequent election for two terms, one of the circuit judges, there was a period of about thirteen years when we seldom met. Since 1879, and until his sad death, our earlier acquaintance has been to some extent renewed by my meeting him while here holding court. I have not, however, that intimate knowledge of the deceased which will enable me to describe his peculiar traits of character from careful observation of his daily life. It is apparent, however, from his opinions during the twenty-seven years that he has been on the Supreme Bench, that they are the work of an able, upright and conscientious man. No one can read them without being convinced that they are not only the productions of an able and learned judge, but also of an honest man. As the public life of the deceased was spent wholly in the performance of judicial labor, as circuit and Supreme judge, it is by his judicial opinions, commencing in the 19th volume of the Illinois Reports and ending with the 112th volume, that we must mainly judge of the ability and integrity with which he discharged his public duties.

In speaking of his moral character, except so far as it appears from the tenor of his written opinions, I must rely upon common repute to a considerable extent in support of the accuracy of my statement. As near as I can learn, no man's memory ever had, upon an occasion like this, less need of the protecting shelter of the maxim, *de mortuis nil nisi bonum*. He was

regarded by all as one of unblemished integrity. He was not a man of poetical imagination, nor had he in early life the advantages for classical education which have been more liberally provided for some more favored ones of his profession. He was of a studious turn of mind, and by his own effort obtained a good education, not only in the science of the law, but in other respects. He was really a self-made man, of strong common sense, of untiring industry, and of much natural ability. To use a portion of his own language in relation to his associate, Judge BREESE, he has unconsciously more accurately described himself than I could have done it, as follows: "Such an intellect did not need the education of the schools to enable him to take high rank among his fellow-men. He cared little for forms, where rights and principles are involved, looking almost entirely to principles that should govern. His intellect was massive and vigorous, rather than quick and acute, never regarding or being attracted by nice or impalpable distinctions. His convictions were deep and permanent, and he never wavered or halted when an opinion was once formed; and yet he was not always self-reliant in the application of legal principles. His investigations were direct, and his mode of reasoning strictly logical. He was laborious and untiring, whether on the bench, in conference, or in the preparation of opinions. With our profession his name will be familiar, and revered by all of its members, as long as the first ninety volumes of our Reports shall be read and his opinions studied. Having discharged all his public duties with marked ability, and having conferred honor on his State, he has died, honored and sincerely regretted by all. He needs not a statue of brass or marble to perpetuate his name. It will live in the history of the times in which he lived and took such an active part." With the substitution of the words "last ninety-one," for the words "first ninety," volumes, the above language of the deceased, though intended for another, has, as has been the case with other writers, become peculiarly applicable to himself. In the opinions of the deceased in these ninety-one volumes, we have a more imperishable monument to his fame than a statue of bronze or marble. Nothing farther need be said in relation to his ability as a judge, except to refer to those authorities, where the question will be found settled.

A few words as to his moral character, and as to the kindness of his heart, and I have done. His character for strict integrity in all his dealings with his fellow-men was above suspicion. He was kind, generous, humane and forgiving, with "a heart for others' woes, unmindful of his own," which

caused him deeply to sympathize with those in trouble and affliction. He was modest and retiring in his disposition, and his habits were simple and inexpensive; and yet he was generous and charitable according to his means, which were quite limited, until, by the constitution of 1870, judicial labor began to receive reasonable compensation in this State.

Though he was born in a slave State, yet when the conflict of arms came between those who loved the institution of slavery more and the Union less, he was for the Union,—as, thank God! substantially all its inhabitants are now.

However much we may be charmed by the brilliancy of genius, or fascinated by poetry and art,—however much we may admire and envy the possessor of commanding talent as an orator or author,—after all,

“The purest treasure mortal times afford,  
Is spotless reputation; that away,  
Men are but gilded loam or painted clay.”

—And such treasure hath our deceased friend laid up “where neither moth nor rust doth corrupt, and where thieves do not break through nor steal.”

Ceremonies like the present are of no moment to the deceased, and so far as his memory is concerned, might well be omitted.

“His battles are fought, and his march it is ended,”

—And what his surviving fellow-soldiers in the combats of life may say or do, has ceased to be of moment to him.

“After life’s fitful fever he sleeps well.”

“Nothing  
Can touch him further.”

But to the relatives and friends of the deceased, who loved him while living, and who cherish his memory now that he has gone to his “narrow dwelling,” such tokens of regard and marks of respect are peculiarly gratifying and consoling; and it is eminently proper that we, his professional brethren, should thus meet and render a just and merited tribute of respect to his memory. Such occasions should deeply impress upon our minds the thought that we, too, are mortal, and that in a few short years those who have known him so well while living, will “sleep the sleep that knows no waking.” Let us so conduct ourselves during the small remaining portions of our lives, that after we, also, shall have gone to “that bourne from whence no traveler returns,” kind words in praise of the departed may be truthfully spoken for the gratification of our surviving relatives and friends.

I have nothing further to say, except to respectfully request that your Honors will permit the resolutions which I have read, to be placed upon the records of the court, as a token of the affectionate regard which the LaSalle county bar had for the deceased while living, and as a mark of their respect for the memory of their departed friend.

MELVILLE W. FULLER, Esq.:

*If the Court please:* I am charged by my brethren of the bar of Chicago with the duty of presenting the following minute, with the request, by the accompanying resolution, that it be entered upon the records of the court:

"At a meeting of the members of the Chicago bar, held on Saturday, February 14, 1885, the following was unanimously adopted:

"The members of the bar of Chicago have received with profound regret the sad intelligence of the death of the Hon. PINKNEY H. WALKER, and have met to express their sincere regard for him as a man, and their high appreciation of his judicial services. For twenty-seven years he has filled the exalted position of Justice of the Supreme Court of our State, and during much of that time has presided as Chief Justice of that court. He served the State as circuit judge for five years before he was called to the Supreme Bench. He has been identified with and largely contributed to the jurisprudence of the State during this period of its signal growth and development. More than ninety of the published volumes of the Illinois Reports are enriched and adorned with the records of his judicial labors. His career has been distinguished by an indefatigable and conscientious devotion of his time and talents to the great official trusts committed to his charge. With unblemished personal character, unquestioned integrity, and industry unsurpassed and rarely equaled, combined with a mind well disciplined and deeply imbued with the fundamental principles of the law and constitutional government, he applied all his great powers and resources to the investigation and just determination of the causes submitted to the court of which he was a distinguished member. The memory and a grateful appreciation of the services of such a man must survive his death. His urbanity and genial bearing have secured to him our reverent affection. His example demands our earnest emulation. It is therefore

"Resolved, That this expression of the sentiments and feelings of the Chicago bar be communicated to the family of the deceased jurist by the chairman and secretary of this meeting, and that the chairman appoint members of the bar to present the same to the Supreme Court of the State, the Appellate Court of this district, and the several courts of record sitting in Chicago, with the request that it be entered upon their records.

Fifty years ago a clerk in mercantile business, the divinity that shapes men's ends so directed the energies of PINKNEY H. WALKER into the channels best fitted for their exertion, that his earthly career embraced nearly thirty-two years of judicial labor, twenty-seven of them as a member or at the head of the tribunal of last resort. During that period the jurisprudence of the State has become fixed upon the broadest foundations, and to its expansive growth the departed jurist conspicuously contributed, as his opinions in nearly one hundred volumes of the Reports attest. *Si monumentum quæris circumspice.*

Lord BACON says: "Judges ought to be more learned than witty, more reverend than plausible, and more advised than confident. And above all things, integrity is their portion and proper virtue." Judge WALKER'S mental characteristics brought him strictly within the definition. To learning he added gravity, patience and assiduity, and to them kindness of heart and gentleness of demeanor. Whatsoever things are true and honest, and just, and of good report, these are the things which the record of his life displays.

The law, once a closed sea, has become with the progress of civilization a boundless ocean, and to coast it all, to fathom all its depths, requires a universality of juridical attainments rarely, if ever, possessed by a single individual. In his brief but comprehensive eulogy upon the lamented BREESE, already quoted from, Judge WALKER said: "In his long and successful career on this bench he contributed largely in establishing our system of jurisprudence. Few men have prepared and announced from the bench more opinions in this or any other country than have come from his pen. Many of them are marked for clearness, force, logic, and finished expression. Few judges have shown more ability in constitutional, commercial, revenue, chancery, corporation, criminal, and real estate questions." *Mutato nomine de se fabula narratur.*

The bare account of his written and printed labors is enormous. They exceed those of ELDON, or STORY, or KENT, and they embrace the discussion of topics in nearly every department, always adequate and frequently superior. In the application of the ancient and subtle learning of real law, in the immense range of chancery, in the great domain of constitutional law, he won marked distinction, attracting special notice by his treatment of questions involving legislative control over corporations, the foundation and the extent of the rule in the Dartmouth College case, the inalienability of governmental powers and the limitations upon attempts to exempt persons and corporations from their exercise.

Profoundly convinced that the action of the general government should be confined within the limits marked out in the Federal constitution, and that all power not expressly and clearly delegated remains with the States and with the people, he naturally, while there is not the slightest tincture of political opinion in his decisions, strenuously insisted that the United States and State governments should each scrupulously abstain from exercising any power belonging to the other, and was especially quick in deprecating any apparent encroachment of the Federal judiciary.

Judge WALKER was what he was by nature. There was no veneration about him. The conclusions of his sturdy common sense sat for their pictures in his official utterances. "As a man thinketh, so is he," and conversely, as this man was, so was his style,—simple, forcible and direct. He aimed to do substantial justice in an intelligible way, not torturing the law by strained inferences, nor destroying definite results by qualifying his qualifications. And while he evidently did not believe in settling questions in advance of the necessity for their decision, or in formulating rules broader than required for the disposition of the matter in hand, yet years of patient reflection had stored his mind with doctrines, which enabled him on fit occasions to indulge in that exposition of general principles which is so gratifying to the profession. And even when he did not do this, I think he always endeavored to comply with Lord KENYON'S suggestion that it is the duty of every court to satisfy the parties "that the whole case has been examined and considered." His mind was singularly free from prejudice. Other judges may have had greater and more exact learning, but none have excelled him in that impartiality which enabled him, in spite of prepossessions even, to hold the scales so steadily that every element of decision was allowed due weight. He never seemed to forget that the highest of earthly functions is the determination of justice among men, and he acted accordingly.

Well grounded in fundamental principles, experience confirmed his attachment to them, and his conviction that they contained within themselves sufficient elasticity to meet all the varying conditions of human affairs, and sufficient rigor for their regulation. If the curse be denounced on him who removeth the landmark, the blessing should rest upon him who, going by the ancient ways, removes no one of the guides to safety erected by the wisdom of the ages.

His judicial life affords an admirable illustration of the lesson taught by the parable of the talents, that the capacity to accomplish increases with its exercise, while it would become extirpated by disuse. He could "toil terribly," and, obeying the oracle, "endeavor not to do more than is given thee in charge," he owes his eminence to that persistent continuity of effort in a single direction, which is the essential condition of permanent success.

"Seated upon down,  
Or in his bed, man cometh not to fame;  
Withouten which, whoso his life consumes,  
Such vestige of himself on earth shall leave  
As smoke in air, and in the water, foam."

But the highest tribute that can be paid to the memory of Judge WALKER lies in the deserved recognition of the unconscious influence which his faithful, industrious and upright career has exerted and will exert. The world does not sympathize with the mere performance of duty, but it acknowledges and does homage to its fruits. We appreciate some sudden convulsion of nature, but not the genial light of every morning. Our attention becomes instantly riveted upon a new proposition, but the steady and quiet adherence to principle excites no special comment. We at once concede the effect of a vigorous attack, but we are slow to comprehend that of a good example. But the example of an honest and thorough life, the example of a sweet and virtuous soul, though its possessor sleeps in dust, "then chiefly lives."

Death has been called a great leveler. It more frequently enables true worth to be recognized, and elevates above, rather than lowers to, the level. Such will be the judgment of posterity upon this record of absolute integrity, of conscientious devotion to duty, now closed on earth forever. But we who recall the touch of the vanished hand, the sound of the stilled voice, the pleasant companionship of the days that will return no more, can not but be exceeding sorrowful.

The members of this court have lost the associate of long years of common labors and affectionate regard; the bar a venerated teacher; the State a faithful servant; his friends (and they were all who knew him) the "human-hearted man" they loved. But this consolation is ours: We can not doubt that as he came to the banks of the river which we all must cross, Good Conscience, whom in his lifetime he had invited to meet him there, lent him his hand, and so helped him over. And Faith and Hope, dispelling our momentary sadness, speak through us to the departing spirit of our dear friend:

"Say not Good Night, but in some brighter clime  
Bid us Good Morning."

The following letter from ex-Chief Justice CATON, written while temporarily absent from his home in Ottawa, was then read:

SAN GABRIEL, CAL., February 13, 1885.

*Chief Justice Scholfield:*

MY DEAR JUDGE—I have just now learned, from a paragraph in a Chicago paper, of the death of Judge WALKER. My sensibilities are deeply touched by this sad event. For years we were associated on that bench together, during which time I learned not only to respect but to love him. Our rela-



tions were not only intimate, but our friendship was close. His integrity was absolutely immaculate. His learning in the law was so deep, and his judgment so clear, as to render him invaluable as a member of the court. His deliberate mode of thought, and his untiring industry, marked him as eminently fitted for the exalted place which he filled for so many years.

To me his demise is especially touching, and, I may add, suggestive. Of the seventeen associates with whom I sat upon that bench but three are left to mourn his loss with me,—Treat, Scates, and Trumbull. He was the junior of us all, and might well have expected to survive us all. He was the last upon that bench with whom I had sat in council and shared responsibilities. So I trust you will pardon the lament which seeks for utterance.

Very truly yours,

J. D. CATON.

Mr. Justice TUNNICLIFF responded:

Having enjoyed a personal acquaintance and friendship with the late Judge WALKER for over thirty years, residing all this time in his vicinity, and coming to this bench as his successor, it will not, I hope, be regarded as inappropriate or obtrusive for me to offer my humble tribute to his memory. My acquaintance with him began in the year 1851, when he was a practicing attorney at Rushville, Illinois, in partnership with that brilliant and accomplished lawyer, the late Robert S. Blackwell. But an opportunity of forming a more intimate knowledge of his great worth and exalted character was afforded me in 1852, when I became a student at law in his office. It would be difficult to find a more able, patient and genial preceptor than was he. Though his office was small, consisting of but a single room for himself, several students and a good law library, his uniform kindness and cheerfulness made all feel at home, and that they were never in the way, but always welcome there. His great fondness for the law, the delight he took in discussing it, and explaining its intricacies, as well as the kind, encouraging words he ever had for the beginner, rendered him not only a most valuable instructor, but caused him to be revered and loved by all who were so fortunate as to receive the benefit of his fostering care. I was in his office at the time of his candidature and election, in 1853, to the circuit bench, and well remember the assiduity with which he applied himself to the arduous labor of digesting the decisions of this court for his own use on the circuit, that he might not on "occasions sudden" be led into rulings in conflict with them. The duties of circuit judge were discharged by him with eminent sat-

isfaction to the bar, to suitors, and the people, for five years, when, in 1858, he was appointed by Governor Bissell to fill the unexpired term of the late Judge O. C. SKINNER, made vacant by the latter's resignation. Judge WALKER was three times elected to a seat in this court, and on two occasions from a district then largely opposed to his political faith. It should, however, be said of him, to his credit, that during his long career upon the bench, though firm and outspoken in his convictions, he never took an active part in politics, nor was he in any sense a partisan; and although occasionally called upon in the discharge of his duties, in connection with other members of the court, to pass upon questions affecting the interest of his party, it is gratifying to know that neither he nor his associates upon the bench have ever been influenced in their decisions, in the least, by their own predilections. His great integrity, impartiality and worth as a judge were too highly appreciated by the people to permit the question of his reelection at various times to be made a political issue. The most prominent traits in his character were his high moral sense of right, his inflexible honesty, and his great love of justice. Though mindful of the maxim, that "hard cases make poor precedents," yet when a case presented itself that seemed, under the imperative and rigid rules of law applicable to it, to work oppression or wrong, his most anxious and earnest thoughts were bent in endeavoring to find some foil to prevent their use in overstepping the limits of equal and exact justice. Adorning the bench of the highest court in our State for over a quarter of a century; repeatedly its chief justice; passing continually upon questions of the gravest import in the law, in all its various branches; settling, by the edict of the court, almost daily, property rights of the greatest magnitude; holding the scales of justice in such equipoise, between great corporations of almost unlimited wealth and power on the one side, and the rights of the public to be affected by them on the other, and so adjusting their respective obligations to each other that whilst invested capital should not be deprived of a reasonable reward for its use, yet those to be conserved thereby should not be subjected to extortion or unjust discrimination; and continually administering the rules of law by which life, liberty and property are held secure,—and doing all this so wisely and satisfactorily that no one has ever been heard to question the purity of his motives, is to justly win the highest prize for which a judge can be ambitious.

During a large portion of Judge WALKER's judicial life, he, with the lamented BREESE and LAWRENCE, alone constituted this court, and per-

formed the immense labors incumbent upon them, and which, it is confidently believed, were greater than those ever imposed upon any court of equal rank and of as few members. That they were able to accomplish so much, and with such signal ability, was not only a wonder to the profession, but a marvel to those who succeeded them. Mistakes, both of law and facts, may doubtless be sometimes found in their decisions, but it could not be otherwise and they be human. Without disparagement to others, it may be said with justice to them, that three more noble, upright and learned justices have never sat upon any bench. They were pioneers in laying deep and broad, and upon a solid foundation, the jurisprudence of our State, and their recorded opinions, running through nearly a hundred volumes of Reports,—and many of them noted not less for the clearness of their statement, and the soundness of the principles of law they evolve, than for the elegant and classic diction in which they are clothed,—will be read and referred to as standards of authority so long as the common law shall form a rule for the guidance of men. But alas! they are all now gone, and their seats upon this bench, which they so highly honored, shall be filled by them no more forever. To have been a triumvir on the bench with such distinguished citizens and jurists, and to have fulfilled all the duties of the position with an ability and fidelity commensurate with its requirements, and in such a manner as to merit and receive the esteem and cordial love and friendship of his associates, and the approbation and confidence of the people, whose worthy servant he was, is an honor worthy of a "civic wreath."

It is a proud monument to Judge WALKER'S industry and the ceaseless labor he was compelled to perform during his long official life, that he is entitled to the enviable distinction of having written more opinions than any judge who has ever sat upon a Supreme Bench, either in this country or in any part of the civilized world; and considering their number, and the vast and varied fields of jurisprudence they embrace, and the brief time allowed for their preparation, we venture to say that they will compare favorably with those of the most eminent jurists who have graced the bench in any age.

Of the inestimable beneficial results to the people of the State from the wise and just exposition of the law during the many years he was upon this bench, and in which he took so important a part, by which monopolies, perpetuities, entailments of property, and other evils, have been prevented, others have so fully and ably spoken, that I will only add, that reared, as he was, in that portion of the State known as the "Military Tract," and where

the conflicting titles to land were not only a great hindrance to the development of the country, but an endless source of annoyance and litigation to occupants, often compelling them to purchase in, more than once, outstanding claims of title to their lands to avoid vexatious, expensive and uncertain law suits before they could feel secure in the tenure to their homes, he early gave his careful consideration to our various statutes of limitation, which, to some other jurists, had seemed to be in conflict with the constitution,—delusions "that keep the word of promise to our ear, and break it to our hope,"—but which to him and his compeers then upon this bench, were construed, as they were doubtless designed by the legislature that they should, to be veritable "statutes of repose," under the benign influence of which every freeholder in that region, as well as throughout the State, finds ample protection in his possessions.

Judge WALKER was not merely an able lawyer and a wise and just judge, but was a man of broad intellect, of wide and varied reading, and well versed, not only in the current literature of the day, but kept pace with the strides of practical science and philosophy. He was not a member of any church, but was a great respecter of those professing christianity, and a firm believer in the immortality of the soul. For over forty years he had been an honored member of the Masonic fraternity, and from its pure and beautiful tenets and teachings, akin to religion itself, he had become imbued with the spirit of universal benevolence, and was an earnest devotee in the dispensation of that charity which "letteth not the left hand know what the right hand doeth." His was a kind, noble and generous nature, with a heart ever yearning for and in sympathy with the poor and afflicted, wherever found, and with a ready hand to help all who needed his assistance. To the young and struggling attorney he was always mindful and considerate, giving them cheering words and earnest, valuable counsel, and whenever, in the darkest hour of their professional life, they sought his advice, his hopeful words of encouragement were to them

"The evening beam that smiles the clouds away,  
And tints to-morrow with prophetic ray."

To his family he was a loving husband, and a kind, tender and indulgent parent. Among his neighbors he was a guiding star, a helper in every enterprise that could advance the public interest, universally respected and enshrined in the hearts of all who knew him.

On the 7th day of February, 1885, at the advanced age of near three score years and ten, the soul of this noble man took its departure for another, and, as we hope, a brighter and a better world.

"Green be the turf above thee,  
Friend of my better days!  
None knew thee but to love thee,  
Nor named thee but to praise.

"Tears fell when thou wert dying,  
From eyes unused to weep,  
And long, where thou art lying,  
Will tears the cold turf steep.

"When hearts, whose truth was proven,  
Like thine, are laid in earth,  
There should a wreath be woven  
To tell the world their worth.

"While memory bids me weep thee,  
Nor thoughts nor words are free,  
The grief is fixed too deeply  
That mourns a man like thee."

Mr. Justice DICKEY then gave expression of sentiments of respect and friendship for the deceased.

Mr. Chief Justice SCHOLFIELD, further responding, said:

Those of my brethren who have remained silent, join with me in expressing cordial approbation of the sentiments of the resolutions, and entire concurrence in the words of eulogy that have been so kindly, so happily, and, withal, so truthfully, spoken of our deceased brother. To those who were allied to Judge WALKER by the endearing ties of kindred, and to us, as well, who were allied to him by the ties, but little less strong, of intimate and congenial official association and of personal friendship, it is a solace and a comfort, in the hour of mourning, to be assured, as we thus are, that his ability, his integrity, and his devotion to duty were known to and adequately appreciated by the bar of the State. The highest reward a judge can receive, next to the approval of his own conscience, is the sincere approbation of an able, enlightened and honorable bar, for, by reason of the nature of the judge's duties, none are so competent as the members of the bar to decide in what manner those duties have been performed; and to the official conduct of no other class is there such zeal, industry, ability and professional learning applied in investigating and testing its accuracy, and at the same time with such incentives to fairness and accuracy of conclusion, in general, as that applied by the members of the bar to the decisions of those who occupy places upon the bench. The practicing lawyer necessarily becomes a critic in whatever relates to his duties, and although the exultation of victory and

the sting of defeat may for the moment affect his partiality, yet if he be not intensely egotistic and morally perverted, this can be but momentary, for his conscience must admonish him that no personal result can be set against a correct administration of the law; and he will, on reflection, moreover, realize that the rule by which defeat was suffered to-day, may, to-morrow, be the rule by which a victory, in a more important cause, shall be achieved. And so it is the empty pretender and impudent sham in the profession is detected, exposed and put to shame, and the judge who truly has the confidence and respect of the bar is known to deserve it.

There is nothing in the character of the duties of a judge to excite the enthusiastic admiration of the populace. A judge wearing his life away in patient toil among records and books—a martyr to his sense of duty—is not a spectacle to enlist the applause of the multitude. Such a life is too barren of tragic incidents, too unromantic, for its history to be embalmed in song or story; and yet, to the few who are capable of accurately appreciating such a life, it is grand and heroic. Its results are protection, peace and happiness to mankind, through the just enforcement of the laws; and these, in every right estimate, are far above the results of a life,—however brilliant its spectacular performances,—devoted to the acquisition of individual power and the perpetuation of individual fame, through the bloodshed, the oppression and the misery of the many, as are those of most of the idols of history.

We are not unmindful that the fame of the judge of a court of last resort must, in the main, rest on his written opinions, seen and known only by the profession, and in professional traditions, and that these, all, after the lapse of time, must be superseded by the written opinions and traditions of others coming after, and finally pass into oblivion; yet we are hopeful that that which is good in our work will not speedily pass away, but that its influence shall long be felt and appreciated, and that the memory of our deceased brother, whose mind has often guided and always sensibly aided in whatever of good may have been accomplished while he sat upon this bench, shall be perpetuated and cherished as long as the influence of that good shall last.

To what has been already said, but little need be added, and the excuse for adding that little is in the fact that in the conference room of the court there is an intimacy of association,—a mutual laying bare, so to speak, of the innermost workings of the mind to each other,—which does not exist anywhere else, and so we come to feel that we know each other much better than others, outside the family circle, can.

Judge WALKER'S mind was strong and practical, and he was industrious to a degree that I have never seen surpassed. He was thoroughly and incorruptibly honest, and in the performance of every judicial act his mind was under the influence of the highest sense of official duty. To say that he never erred, would be to claim that he was more than human; but when the vast amount of work that he performed, and the circumstances under which it was performed, are considered, the only wonder is that his errors are so few. This will be better understood by reference to some facts which are, probably, not known, even to members of the profession, generally.

As has been observed by others, Judge WALKER came upon this bench in April, 1858, and he consequently lacked only about two months of completing twenty-seven consecutive years of service here. His first opinion is reported in the 19th volume of Illinois Reports, and his last will probably appear in the 112th volume of that series, making in all ninety-three volumes in which his opinions will appear. Throughout that long period of time he was never absent from his place on the bench during a single term. There were, probably, three or four times when he was detained from his seat by temporary illness, but not more, and then it was only for a day or so at a time. He was usually the first one to enter the conference room in the morning, and the last one to leave it at night, and often, after retiring to his room, he gave hours to labor upon his cases that nature required for relaxation and sleep. He never failed to write an opinion in a case assigned to him, or to perform its equivalent in labor in other cases, if, for any reason, he found he could not write in it; and he often,—very often,—wrote opinions in cases not assigned to him, to assist and relieve a brother judge. The dread that the dockets would fall behind weighed upon his mind like a night-mare, and so long as unfinished business was in his hands, he allowed himself no repose. Neither private business nor social enjoyment—not even sickness of friends and family—was allowed to claim his attention at the expense of the business of the court. When he first came upon the bench, though the business of the court was rapidly increasing, the number of cases was not too great to be disposed of by himself and his two associates, with moderate labor. In time, however, the rapid increase brought the number beyond their capacity, and then, for a while, and until the adoption of the present constitution, they performed an amount and character of labor, that to those familiar with its difficulties seems almost incredible. Still the number of cases to be annually disposed of grew, and although the addition by the present constitution, of the four judges

to the bench, lightened the labors of writing opinions, it retarded rather than accelerated decisions in conference, since it is always much easier for three than for seven to harmonize in opinion. The great fire in Chicago, in October, 1871, and the financial panic of 1873, gave an impetus to the accumulation of business before the court, beyond and in addition to the gradual accumulation from the increase of the population and business of the country, so that we were compelled to take upon our *agenda* dockets, for opinions, in the year 1874,—at our January term 199 cases, at our June term 144 cases, at our September term 518 cases,—making, in that year, a total of 851 cases, or 123 cases to each judge. In the preceding year, and in the years succeeding, until the creation of the Appellate Courts, the number of cases taken for opinions did not fall much below this. In any one of those years, had each case upon docket been argued orally to the full limit allowed by the rule of court, it would have been impossible to have completed the arguments within the year, occupying every day, Sundays included, for that purpose, to say nothing of the time necessary for discussing and deciding in conference, writing opinions, and afterwards reading and discussing them in conference, and the time occupied with petitions for rehearing, and motions, and questions of practice, and that necessary for changing from one division to another. I recollect of no instance in which Judge WALKER did not perform at least his equal share of the work of the court, and have everything on his hands fully disposed of by the commencement of our September term. In one year,—I think, in 1873,—our labors were protracted in this (the Northern) Grand Division, until in the second week in November. We had been engaged throughout the term, on every working day, from eight o'clock in the morning until nine or ten o'clock at night, and sometimes even until a later hour, and therefore we necessarily went to the work of preparing opinions, in the vacation that followed, with somewhat of exhausted animation, and wearied brains, and unquiet nerves; yet Judge WALKER wrote, between that adjournment and the first of January following, when the court convened in the Central Grand Division, *sixty-two opinions*, and read them in the conference of that term. Unavoidably, they required much careful reëxamination; and emendations sometimes, and occasionally recasting of considerable portions, to meet the views of his brethren, were inevitable; and to prepare these, which he did, and likewise performed his part in full of the current work of the term, required him to work at every spare moment, and far into each night, and for several weeks I doubt whether midnight ever found him in his bed. In many of these cases the records were voluminous, and the mere



necessary reading of the printed matter was a very great task, as was also the manual labor of the writing that had to be done; and to all this add the far greater mental labor, constant in its strain, upon the brain, and most exhausting in its effect. It was by far too much for any ordinary individual, and it proved to be too much for even his iron constitution. It is believed, and I have no doubt truly, that it was the origin of that disease which finally caused his death, for not long afterwards it was found to be fastened upon him, and although at many times it was checked, and at some times it was apparently almost cured, it never left him. It may be that with entire relaxation and rest the disease might have been conquered, but this he could not have and remain in the court. His conscience would not permit him to be idle while cases accumulated upon the docket, and remained from term to term undecided, and he, as well as every other member of the court, realized that such was the constant pressure upon the court that the cessation of labor of but a single judge operated to procrastinate decision and accumulate undecided cases upon the advisement docket. His life was literally sacrificed to his sense of judicial duty. Others may have exhibited more brilliancy and learning in the discharge of judicial duty, but none have ever been more loyal and self-sacrificing to its commands, as it was given to him to comprehend them.

In his association among his brethren, Judge WALKER was modest and pure in deportment and speech. In considering questions, he was patient, laborious and conscientious, and although firm when his convictions were formed, in endeavoring to arrive at a correct result he had no pride of opinion, and lent an attentive ear to every suggestion tending to enlighten the discussion. Like Lord MANSFIELD, he believed it was more magnanimous to retract when wrong than to persist in error. It gave him unaffected pain to think that he might, through misapprehension, do injustice by his conclusions. He rarely used an ill-tempered word, and he never uttered a coarse or vulgar word at the expense of his associates, and he never intentionally gave pain to others by captious or harsh criticism. He rather courted than sought to avoid criticisms of his own opinions, so long as they were within the control of the court, and no argument in opposition to his expressed views gave him offence, so long as it was respectful in language and temper, and fair in statement; but his sensitive nature writhed and suffered intensely under any imputation, however indirect, that reflected upon his integrity.

We shall long feel the loss of his wise and prudent counsels, his genial and sympathetic fellowship, his helping hand in our labors, and, above all, the support and shield of his incorruptible moral character.

The resolutions will, as requested, and likewise the remarks that have been made thereon, be spread upon the records of the court, as a memorial of the esteem in which our deceased brother is held.

Thereupon, as a further mark of respect for the deceased, the court adjourned.

REPORTS  
OF  
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NORMAN L. FREEMAN,  
REPORTER.

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