

In Memoriam

Charles Henry Belknap

PROCEEDINGS
IN THE
SUPREME COURT OF THE STATE OF NEVADA

MONDAY, November 15, 1926.

Present—Hon. B. W. COLEMAN, Chief Justice;
 Hon. J. A. SANDERS, Associate Justice;
 Hon. E. A. DUCKER, Associate Justice;
Committee, and Officers of the Court.

The committee heretofore appointed to draft appropriate resolutions expressing the sorrow of the Court and Bar due to the death of Honorable CHARLES HENRY BELKNAP, formerly a Chief Justice of this Court, presented the following:

MEMORIAL

CHARLES HENRY BELKNAP

Honorable CHARLES HENRY BELKNAP, for many years an honored and highly respected member of this Court, tranquilly passed on to a higher life from his home in San Francisco, California, on October 6, 1926.

Judge BELKNAP was the second son of Alfred Alden and Caroline Lucinda Belknap, and was born at Newburg, New York, on July 20, 1841. His immediate ancestors were of pioneer American stock, and he inherited their sterling virtues and love of country and its institutions. He acquired a liberal academic education and thoroughly qualified himself for a useful life as a member of the legal profession.

He removed from the State of New York to Nevada in 1865, and located at Austin where he practiced law for a few years, and then went to Carson City where he became Secretary to Governor L. R. Bradley. On February 25, 1873, at Carson City, he married Virginia Bradley, the daughter of Governor Bradley, a noble and talented woman who reflected both the steadfast character and the talents of her honorable father, and who

predeceased her well-loved husband. They are survived by their affectionate and worthy children, Mrs. Caroline Belknap Brown, Virginia, Dita, and Alden Belknap, all residing together in San Francisco, California.

Judge BELKNAP practiced law for about six years at Virginia City, Nevada, in partnership with that very able and brilliant member of the pioneer Nevada bar, Hon. Charles E. De Long. He also served a term as Mayor of Virginia City.

In 1872 Judge Garber resigned as Justice of the Nevada Supreme Court and Gov. Bradley appointed Judge BELKNAP to succeed him until the next election, at which time he was defeated by Judge Earll. The people of Nevada, however, recalled Judge BELKNAP to the Supreme Bench when they elected him in 1880 in preference to that able and coast-wide distinguished jurist, Hon. W. H. Beatty.

Judge BELKNAP was reelected to the Nevada Supreme Bench in 1886, 1892, and in 1898, and retired therefrom on January 1, 1905. In all he served the people of Nevada as a member of its highest tribunal for the unusually long period of twenty-six years.

A review of the many decisions written by Judge BELKNAP reveals a conciseness of expression and a lucidity of thought that challenges the admiration of all lovers of unadorned truth. In no instance did he attempt to embellish either statements of fact or declarations of juridical principles with flights of rhetoric. While his opinions were almost laconic in brevity, yet they clearly and correctly applied all of the necessary legal principles essential for a proper solution of the controverted issues. His integrity was spotless and his courage was unwavering. He did not hesitate on several occasions to write opinions running counter to popular currents of public sentiment. On the bench he knew no friends and off the bench he knew no enemies.

In private life he was always an urbane, courteous, and sympathetic gentleman and friend, and in domestic life he was an ideal husband and father.

He was an honor to the State of Nevada whose people

he so long and so faithfully and efficiently served, and he leaves us of the Nevada bench and bar very great debtors for a life well worthy of our earnest emulation.

It is the recommendation of your committee that this memorial tribute be entered in the minutes of this Court and that an engrossed copy thereof be forwarded to Judge BELKNAP'S daughter, Mrs. Caroline Belknap Brown, now residing at 75 West Clay Park, San Francisco, California, and also to the Secretary of the Nevada State Bar Association.

SARDIS SUMMERFIELD,
E. L. DODGE,
FRANK H. NORCROSS,
ALFRED CHARTZ,
J. POUJADE.

In addition to the above memorial, members of the committee addressed the Court as follows:

Sardis Summerfield, Esq.:

If the Court please, Judge BELKNAP was a member of this bench at the time that I was admitted to practice in this State. I knew him very well indeed. It would be difficult to forget the interest that he took, not only in my own case, but to my personal knowledge, in the case of others, when they were first admitted to the bar, in the way of cheerful well-wishes manifested towards them, and towards myself especially.

As is indicated in the resolution, Judge BELKNAP possessed to almost a remarkable degree the happy faculty of condensation. I well remember one of his colleagues, Judge Hawley, remarking in my presence that "Judge BELKNAP could write more law in one sentence than most judges could in a page." A review of his decisions clearly shows, every one of them, the happy faculty of being able to present in concise, brief language the law which was virtually decisive of the case.

As is also indicated in the resolution, he possessed to a much more than average extent the courage of a judge

to declare the law, regardless of what the consequences might be. I remember when he wrote the decision which permanently settled the law of prior appropriation of water, as being the law of this State, overruling in express terms the previous decision of this Court in the case of Van Sickle v. Haynes. Riparianism was declared to be the law of this State, and though he was criticized to some extent for it, nevertheless the fact was that the people at that time had almost unconsciously adopted the law of prior appropriation as a matter of custom at the very time they were criticizing that opinion.

I remember another case where he wrote an opinion which ran decidedly against the current popular belief, holding an eight-hour law to be unconstitutional.

A review of his decisions will show other cases in which he rose to that high degree of judicial firmness, disregarding what might be the evanescent reasons of popular sentiment and adhering to the well-determined principles of the law. The decision of which he is the author, and which I mentioned before, of making the law of prior appropriation in the use of water, preceded by several years the legislative declaration making the law of prior appropriation the law of the use of water in this State. Through Judge BELKNAP this tribunal established as the juridical law of this State the law for the use of water without waiting for the Legislature to pass a statute to that effect.

Passing from Judge BELKNAP'S juridical career, I allude to the fact that he was a natural gentleman in the private walks of life. In domestic life, in particular, he was an ideal husband and father, and I take the liberty at the present time of reading an excerpt from a letter from his daughter. We all know that those of the family circle are in a better position to judge than any one else the many attributes of those we well know upon the street and in business affairs. I read the following excerpt from a letter from Judge BELKNAP'S eldest daughter, Caroline Belknap Brown. She says:

Despite father's long service upon the bench, it was his family life rather than his public life that really counted. There never was a truer gentleman. In all his life I never knew of his saying, doing, or thinking an unfair or unkind thing of anybody. Always gentle and always kind, during the last years of his life father was very feeble, and at times seemed to know very little, but there never was a time when he was not showing kindness in abundance.

Those who were acquainted with Judge BELKNAP, so far as from my limited observation ran, can heartily endorse the words which I have just read, coming from the pen of his daughter.

I do not feel that I can add anything in particular to the resolution which has been read to the Court. I presume if they are adopted by the Court they will be published in the next Nevada Supreme Court Report as heretofore has been the custom.

Alfred Chartz, Esq.:

Agreeing with all that has been said in behalf of Judge BELKNAP, I would like to add a few words. In 1863 and 1864 the question of the bullion tax loomed large in the constitutional debate of those two conventions. In 1870 I began as a printer at work on the *Carson Appeal*, and I got off the tickets for that election. Governor L. R. Bradley was a candidate, and F. O. Treadwell, agent of the Virginia City branch of the bank, was a candidate. It was pretty well known that Mr. Treadwell was against the bullion tax, so-called, and that Governor Bradley was running to place that tax upon the statute books. It was the bitterest fight and hottest contest that, I believe, was ever staged in Nevada. Bradley was elected.

C. C. Goodwin, Joseph T. Goodwin, and Rowland Daggett were the editors of the *Territorial Enterprise*, which was then said to be one of the leading newspapers

of the Pacific Coast. There was nothing too abusive for these people to say against Bradley during that election. Nearly all of the papers of the State were published in mining camps and supported Treadwell, while a very few, scattered far and wide in the farming districts, supported Bradley. In spite of the terrible opposition and the worst villification that a person could utter in a newspaper against him, Bradley was elected Governor. He appointed CHARLES HENRY BELKNAP as his private secretary, and it was the splendid mental poise I have already credited him with that had much to do with the passage of the Act imposing a tax on mines, approved February 28, 1871.

But for this tax this State would have been impoverished. The owners of the mines did nothing for Nevada. They were very deeply interested in avoiding taxation, although they were costing the government more than anybody else for their protection. For their legal protection they looked to the courts; their children filled the schools; their offenders filled the prisons, principally. They were rough. I lived in these camps in the early days until I moved to Carson City, and I know how rough they were. That tax brought to Nevada its main support, and it was a grave thing for Judge BELKNAP to come from Virginia City at that time, take his position and stand as he did in his quiet and effective way, helping Governor Bradley in the passage of the Act, and I think the circumstance is monumental to his credit. When the mines were worked out their owners left us nothing but abandoned shafts as monuments to their memory, with the single exception of Clarence Mackay, who has done so much for this State as a memory to his father.

Frank H. Norcross Esq.:

May it please the Court. I do not know that there is anything I can add to the splendid tribute which has been paid to Judge BELKNAP, both in the resolutions prepared by Mr. Poujade and Mr. Summerfield, and by the remarks that have been presented here.

I do desire, however, to take advantage of the opportunity in a very few words to add slightly to the tribute already paid.

My first meeting with Judge BELKNAP was in July, 1894, upon the occasion of taking the bar examination for admission to practice before this Court. I notice that Judge Dodge is also a signer of the memorial, and he and I were admitted at the same time. From that time on I had the privilege of becoming fairly well acquainted with Judge BELKNAP in his professional capacity. Too high a tribute cannot be paid him in that outside of the bench and bar he was an ideal citizen, a true gentleman, a great character. I had the honor to succeed Judge BELKNAP upon this bench. In my opinion he is entitled to the greatest credit, possibly, of any judge who ever sat upon this bench in the matter of the brevity of his opinions. Your Honors, I think, will all agree with me that it is much easier to write a long opinion than a short one. I know that was my experience, and I believe it is the experience of almost all judges. If there is anything that should appeal to judges, as I know from my practice that it will appeal to the lawyer, it is that ability in the jurist to reduce to the minimum the principles of the law which are applicable to the particular case and to make a correct application of these principles. Judge BELKNAP, more than any other of our judges, had that faculty—of putting in a short and concise opinion the rules of law applicable to each case. That was the distinguishing characteristic in his long service as a judge of this Court. He not only rendered a great service to this Court and to this State, but the simplicity and correctness of his opinions made him a conspicuous jurist of the Nation. I thank you.

J. Poujade, Esq.:

May it please the Court. No judge and no man ever lived who was perfect nor free from mistake. No man ever properly fulfilled a public trust for many years without making some dissatisfaction. The tributes

which have been paid by the speakers who preceded me have been applied justly to Judge BELKNAP and, although he may have made a few mistakes, he made many more friends through his fair and fearless decisions. In private life no one knew him but to love him. He did not have an enemy.

Chief Justice Coleman:

The resolutions presented will be filed, and it is ordered that they be incorporated in the minutes of this court, and embraced in the next volume of the Nevada Reports. It is further ordered that a certified copy be sent to the family of the deceased and to the State Bar Association. The Court wishes to thank the committee for its extra services rendered in this matter.

I did not enjoy the pleasure of an acquaintance with Judge BELKNAP during his official career, but we are proud of the record which he made for himself, for the Court, and for the State.

Justice Ducker:

I did not have the pleasure of an extended acquaintance with Judge BELKNAP. I can recollect meeting him but once. As in Mr. Summerfield's case, he was a member of this Court when I was admitted to the bar.

I never heard anything said of him contrary to what has been said this morning. I have heard many high commendations of Judge BELKNAP, both as a gentleman and jurist. I have read many of his opinions. Of course, they speak for themselves. They have that virtue of conciseness you have mentioned, stating the law without any attempt at show in doing so. His long tenure on the Supreme Bench is in itself a monument of his fitness and of his personal and judicial character.

Chief Justice Coleman:

The court at this time will stand adjourned out of respect to the memory of Judge BELKNAP.