

PROCEEDINGS
IN THE
SUPREME COURT OF THE STATE OF NEVADA

THURSDAY, October 24, 1929.

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

The Committee appointed September 28, 1929, to draft and present to this court resolutions of respect for the late Judge of the Federal Court of this district, Judge EDWARD SILSBY FARRINGTON, presented and recommended the adoption of the following:

MEMORIAL

EDWARD SILSBY FARRINGTON

Judge EDWARD SILSBY FARRINGTON was born on September 6, 1856, at Yreka, California, to which place his parents, Daniel Farrington and Elizabeth Silsby Farrington had moved from the State of Maine. They were of English ancestry.

Attended by his wife and other members of his family, Judge FARRINGTON died at Santa Barbara, California, on August 31, 1929, aged six days less than seventy-three years. He had been in failing health, but instead of resigning from the bench he retired in 1928 so as to continue work to the extent of his strength on cases which might be assigned to him.

In addition to his widow, Celia Agnes Farrington, there are surviving him four of her sons, Judge Erroll J. L. Taber, A. D. Taber and H. S. Taber residing at Elko, Nevada, and Joseph M. Taber residing in San Francisco, a nephew, Donald H. Farrington, and a niece, Grace Farrington Isenberg, living in Oregon.

He graduated from Amherst University in 1880 with the degree of Bachelor of Arts. He came to Nevada

and taught school at the town of Empire on the Carson River, where quartz mills extracted many millions of dollars from Virginia City ores, and where other men taught who later became prominent. In 1883 and 1884 he was the principal in charge of the State University, then located at Elko, before its removal to Reno.

During his vacations in the years he taught at Empire he read law at Virginia City with Judge Whitman, an able lawyer of high character who later became a Justice of the Supreme Court. While in charge of the University at Elko he occupied his spare time by studying law in the office of George F. Talbot.

In 1885 and 1886 he attended Hastings Law School in San Francisco. Upon his graduation there and admission to the bars of California and Nevada in December, 1886, he began practice at the age of thirty, at Elko, Nevada, as a member of the firm of Talbot and Farrington. This partnership continued until George F. Talbot was called to the district bench in January, 1891. Judge FARRINGTON continued to reside at Elko and to practice law there and in other parts of the State until he was appointed Federal Judge.

On August 22, 1892, he married Celia Agnes Taber, his helpful and devoted wife. Mutual tenderness and exceptional happiness extended throughout their married life. In 1904 he took into his office his stepson, Judge E. J. L. Taber, upon his graduation at the Law School of Columbia University.

Judge FARRINGTON was the nominee for Congress of the Republican party, with which he was always consistently allied, in 1900 and again in 1902. His party was greatly in the minority and he was unsuccessful in both instances, but the high plane upon which he conducted his campaigns won for him sympathy, standing and support which led to his appointment to the highest federal office in the State.

After careful investigation President Roosevelt appointed him United States District Judge for the District of Nevada, and he entered upon the duties of this office in February, 1907.

His appointment to the Federal District Bench was most worthily merited and met with the approval of the leading citizens of the State and members of the bar. His conduct of that important office for over twenty-one years was marked with signal ability and painstaking and conscientious application to duty.

As a jurist in the trial of important cases in this and adjoining States he rendered distinguished public service.

Judge FARRINGTON'S integrity and character were above reproach. With few faults of his own, he was too considerate to criticize the failings of others.

His devotion and care, not only for his wife but for all members of his and her families, was exceptional. In his intercourse with others he was always approachable and kindly.

In recognition of his worth and learning, the University of Nevada in 1908 conferred upon him the degree of Doctor of Laws.

Be It Therefore Resolved, That in the passing of Judge FARRINGTON, the Bench and Bar of this State lost a profound, conscientious and able jurist; the State at large, one of its most splendid citizens; his wife, a tender and affectionate husband; the other members of his family a wise and considerate counselor; and all who best knew him, a most kindly and appreciative friend.

Be It Further Resolved, That the members of the Bench and Bar extend to his stricken widow and family their deepest sympathy; that a copy of this memorial be spread upon the minutes of the Court and published in the next Nevada Report, a copy mailed to the Secretary of the State Bar, and that a certified copy under the seal of the Court be forwarded to Mrs. Farrington.

Respectfully submitted,

G. F. TALBOT,
SARDIS SUMMERFIELD,
WM. WOODBURN,
GEORGE L. SANFORD,
B. F. CURLER.

In addition to the Memorial, members of the Court and Bar made the following remarks:

B. F. Curler, Esq.:

May it please Your Honors. To me has been delegated the duty and the privilege of presenting to Your Honors these resolutions and recommending their adoption. Just before leaving Reno I received a wire from the Chairman of the Committee, Judge Talbot, notifying me that he had been delayed in San Francisco, and expressing his great regret that he was unable to be here at this time. Sardis Summerfield, the next on the Committee, is suffering from an attack of neuritis and is unable to be here. The other two members of the Committee notified me that their engagements were such it would be impossible for them to be here. So to me has fallen the duty of presenting the resolutions to the Honorable Supreme Court of the State of Nevada.

Aside from my position as a member of the Committee delegated to assist in the drafting of these resolutions, I desire to say a word as a friend of the deceased.

My first acquaintance with Judge FARRINGTON dates back to the year 1896, when we were both engaged, upon opposing sides, in a water suit in Elko County. At that time, though we were opposing attorneys, I developed a great affection and admiration for Judge FARRINGTON, and that affection and admiration continued during his entire life.

As an advocate he was an opponent worthy of any man, but he was always fair and always considerate, though very, very earnest in the advocacy of his cause.

As a friend he was loyal. And though, as these resolutions say, he had hardly a fault of his own, yet he was very, very charitable toward the faults of others.

It has always seemed to me that the greatest honor that can be conferred upon a lawyer by others is his elevation to the Bench, and the greatest honor that can come to a man by the effort of himself is to administer that office in the manner in which Judge FARRINGTON

administered his, actuated by the desire to do equal and exact justice between all who appeared in his Court. He was signally fortunate in being able to carry that desire out in a way few have been able to equal.

The loss of Judge FARRINGTON was a great loss to the State of Nevada; it was a great loss to the profession; it was a great loss to his family; and it was a great loss to his friends.

H. H. Atkinson, Esq.:

May it please the Court. It is very difficult for me to add anything to that which has been said by the Committee in its resolutions and by Judge Curler. The gentleman who prepared the resolutions has known Judge FARRINGTON so long; the Honorable Sardis Summerfield and Judge Curler has been associated with him, as he mentioned. Nevertheless I feel that it would be unpardonable if the United States District Attorney's Office, representative of the Government, should let the opportunity go by without adding our respects to him, the more so since we, because of our close association with him, probably know him more intimately than the average member of the bar. And we in that office feel that the people at large have lost one of the greatest exponents of justice, one of the most powerful men who had the law at heart, and the enforcement thereof, and who believed it was his innate duty to enforce the law impartially and yet with kindness.

He was fearless, he was utterly impartial, he felt that he should enforce the law as it was, even though it fell hard, sometimes, on those who were his friends. But he was universally respected for that one marvelous principle, his belief in the enforcement and the maintenance of the Constitution and laws of this country. More than that, when we were with him in chambers he showed such a magnanimity of spirit and warmth of heart that it was almost an antithesis, as it were, in contrast to the way he enforced the law from the bench.

He was a wonderful instructor to us. We, as members of the United States District Attorney's Office,

probably got more real instruction from him than is possible to detail, and we feel that we have lost a real preceptor and instructor, as well as a friend.

Judge FARRINGTON, furthermore, impressed the people with the dignity of the Federal Bench. Although that court has been relegated, perhaps, in the eyes of some on account of the enforcement of the Prohibition Act, yet when Judge FARRINGTON entered the courtroom filled with people, with his presence came a dignity and strength that permeated that courtroom immediately, and everyone was impressed with the power and strength of a Federal Judge.

We, as members of the United States District Attorney's Office, feel that the people have lost a wonderful exponent of justice, and we know the sorrow that must be in the heart of Mrs. Farrington, because we know Judge FARRINGTON was exemplary as a husband.

George A. Whiteley, Esq.:

I think perhaps I knew Judge FARRINGTON more as a son might know his father. I came to Carson City about five years ago as an assistant to George Springmeyer, then United States District Attorney. Almost one of the first men I talked to was M. A. Diskin, now Attorney-General of Nevada, who had formerly been assistant to United States District Attorney William Woodburn. He said: "George, I envy you the experience you are going to have. I would give thousands and thousands of dollars for what I learned from Judge FARRINGTON." And although I thought I knew a great deal, I soon found that I didn't know so much after all, for almost daily I stored up in my memory something I learned from Judge FARRINGTON. I got, perhaps, his angle of the law in a case, his view of the presentation of evidence or the argument before a jury. And many and many a time after some man had been sentenced by the Court or some jury had brought in a verdict I went into Judge FARRINGTON'S chambers and sat down and we talked over the situation from

the human standpoint. I found that Judge FARRINGTON was one of the most understanding men that I ever came in contact with. We would sit down and talk things over, not as judge and attorney, but as two citizens, or possibly as a father and a son.

I shall always remember a day perhaps three or four years ago, when I wondered if I was in good standing with Judge FARRINGTON. Sometimes an attorney doesn't quite know how he stands with the members of the bench, and the Judge did not always display his feelings. But one day I was standing in the lobby of the Arlington Hotel after we had had a very strenuous session of court. He came up to me, put his arm around my shoulder and said: "Well, boy, you have had a pretty tough day, haven't you?" I knew then I had at least a certain amount of respect from Judge FARRINGTON.

As I say, I knew him more as a son knows his father, and Judge FARRINGTON seemed to have that fatherly regard for all the members of our office. And, contrary to what most people think, it was quite customary for Judge FARRINGTON to want various attorneys to come into his office and sit down and chat over things, for maybe hours at a time. I recall particularly Mr. Montrose, Mr. Cantwell, Mr. Atkinson, Mr. Springmeyer and myself just sitting and chatting with the Judge for hours at a time.

So I say that in the loss of Judge FARRINGTON there is a little different feeling in me than that expressed in the resolutions and in the statements of Judge Curler and Mr. Atkinson.

Homer Mooney, Esq.:

May it please the Court. I feel that I would be lacking in natural feeling and a sense of duty if I did not, with the permission of the Court, add my tribute also to Judge FARRINGTON.

It is the glory of the law that it serves as a vicegerent of the Deity in mundane affairs for the vindication of

the rights of society and the administration of justice between man and man.

Among the fundamental principles of jurisprudence are the precepts: "Injure no man," "Render to every man his due." And it is a characteristic phenomenon that those naturally attached to these principles seem to receive a contagion enriching their character as lawyers and judges. Those who become active in the administration of law derive from their activities the characteristics of Equity, the characteristics of Justice.

Judge FARRINGTON not only brought these natural qualities to the practice of the law and the administration of justice, but exemplified them himself in action, and enriched his own character from them. Such a development is somewhat in keeping with the legend of the Great Stone Face. The boy, gazing upon the grand and benignant rock sculpture promising the advent of a leader, became so imbued with the qualities of that visage that in later years he developed into that character himself. So Judge FARRINGTON, contemplating the principles of law and admiring and construing its lofty purposes, became with the passing years Equity itself.

But despite the legal qualities of his mind, Judge FARRINGTON was essentially a democratic man. I met him in more than one capacity. My first interview with him was with diffidence, because I stood in awe of the great light that hedges the throne. But I was received so graciously and so simply that my sentiments changed immediately to those of friendship and admiration.

Judge FARRINGTON was a nationalist, but withal he was a Nevadan, quick to evidence local pride and patriotism. He was like Marshall, the first expounder of nationalism. Marshall first of all was a Virginian. Judge FARRINGTON, moreover, had a democracy, not of the back-slapping type, but that kind of democracy which finds itself unable to discriminate between Tyrian and Trojan. It was a real democracy.

So far as the contribution of Judge FARRINGTON to

the jurisprudence of this district is concerned, I think he left lasting monuments in the reports, particularly in respect of the water law, the mining law, and the public utilities law. While he adhered closely to the letter of the statutes, he showed his human side by tempering justice with mercy.

His private life, filled with virtue, is as much a monument to him as that testimony concerning his intellect, his industry and his honesty, which remains as a perpetual memorial in the records of our courts. Of him it may be well said, as was said of Christopher Wren, the architect of St. Paul's: "If you would see his monument, look about you.'

Chief Justice Ducker:

The court desires to thank you, Judge Curler, and your associates, for acting as members of this Memorial Committee, and for your report, and to thank you, Mr. Atkinson, Mr. Whiteley and Mr. Mooney for the sentiments you have expressed here this morning.

I wish also to say that your good offices have been faithfully discharged, and that the Justices of this Court indorse to the fullest measure the fine tributes you have paid to the life and character of Judge FARRINGTON. We are happy to know that these deserved tributes are a permanent record of this Court and will be published wherever its decisions are to be found.

We deplore the loss of this distinguished member of our great profession of the law. We deplore his loss as a useful and lovable citizen, as a public servant of high repute, and as a friend in private life.

During his long and honorable career on the Federal Bench of this district he has been contemporaneous as a judge with the present Justices of this Court and with several of our predecessors. As such he has commanded our respect, our confidence and our admiration as judges and as men and neighbors daily impressed with the worth of his character. In the course of his tenure of the bench he has with singular ability construed and

applied some of our important State statutes, and his opinions in this respect and in other instances have been helpful to this Court.

His fair fame as a jurist is quite secure. It is written into the annals of the Nation by a mind that was endowed with great natural powers and cultivated by the most painstaking assiduity—written there through hours and days and years of laborious thought and study.

He was always clear and fearless in the performance of duty. The breath of slander never touched him, either in private life or in the great office which he so long adorned. The life of Judge EDWARD S. FARRINGTON furnishes a most noble prospect for the members of our profession and for all who love to contemplate the majesty of a life devoted to kindness, to duty, and to the attainment of high ideals.

Justice Coleman:

I do not feel that I can add anything to what has already been said. It was not my pleasure or privilege to know Judge FARRINGTON for as great length of time as most of you, and before I came to Carson City my acquaintance with him was indeed very limited. But I did form of Judge FARRINGTON a very exalted opinion. In fact my sentiments might be expressed in a very few words. To me he was an ideal man, an ideal citizen, and an ideal judge. I think that contains all that I am capable of saying.

There was one thing, however, that struck me rather forcibly some years ago. I had lived in the State of Colorado before coming to this State, and there we had as United States District Judge a man who established a reputation for learning, ability and integrity, but who was of a different temperament from Judge FARRINGTON; he was a very austere man, and being years younger than I am now, I looked upon him somewhat with awe. After coming to Carson City and being thrown more or less in intimate touch with Judge FARRINGTON, I could but contrast the two men. I need not

dwell upon the impressions which I formed as to Judge FARRINGTON'S humanitarianism. But here I want to say that one of the outstanding things which I will never forget is the fact that after our country became involved in the World War, Judge FARRINGTON did not withdraw himself into the sanctuary of his office, but contributed his energies and strength to the cause of his country in every way. Notwithstanding the fact that at that particular time of which I now speak he was about the age of sixty years, he joined the local home guard. Now, of course, he knew, and we all knew, that Judge FARRINGTON had no idea of ever qualifying as a soldier in the army. We knew the motives which prompted him, motives of patriotism, to stimulate activity in others in being outstanding in the cause of liberty. As I say, that one little thing made a marvelous impression on me and others who joined, I know, for the same reason. There were others here who were approximately of Judge FARRINGTON'S age, perhaps not quite so old, who joined that organization, but they were differently situated.

Taking everything into consideration, I can pay Judge FARRINGTON no higher tribute than, as I said, he was an ideal man, an ideal citizen, and an ideal judge.

Justice Sanders:

I heartily concur in what has been said. Our colleague was not only a great jurist but a most admirable character, a Christian, a gentleman, and a scholar. His decisions have not only been helpful to this Court, but instructive. His record as a jurist has had much to do with the economic and social conditions in Nevada. As a citizen he was without a peer. The Constitutions of the United States and the State of Nevada were his guides.

I deeply sympathize with his charming and devoted wife, the light of whose love is present with us on this occasion. My associations with him since I have been a member of this bench endeared him to me personally,

and I know no way of expressing my sincere regret at his passing than to say that my heart is sad; I shall miss him.

E. J. L. Taber:

With the Court's permission, I desire to express the appreciation of my mother, her sons, their families and the other relatives of Judge FARRINGTON for what has been and is being done here today. We thank Your Honors, the members of the Committee, those other members of the bar who have eulogized Judge FARRINGTON and paid him tributes today, and all those others who have gathered here in respect to his memory.

To those of us who were near to him and who loved him with all our hearts, his loss is irreparable. The loss falls most grievously upon his widow, who lived with him so many years, who loved him so much, and who was beloved by him so much; a mutual devotion, may it please the Court, which served as a most beautiful example to those of us of the younger generation. The courage with which my mother has borne her loss is such as can be explained only as having its source in a power higher than anything on this earth. She desires me to say that she asks God's blessing on each and every one of you here, and she prays that if you shall have such burdens to bear, God may help you to bear them as you today have lightened her burden.

Chief Justice Ducker:

Judge Taber, we all appreciate the grief of yourself and the members of your family.

I have here a communication from Judge George F. Talbot, which has been handed to me by the Clerk, and which I shall read:

SAN FRANCISCO, October 23, 1929.

"MRS. EVA HATTON, *Clerk of Supreme Court, Carson City, Nevada.*

"DEAR MRS. HATTON: I am very sorry I will not be able to be there tomorrow for the presentation of the

resolutions in respect to the late Judge FARRINGTON. I intended and expected to come, but now find that I will be detained here about two days longer.

"I inclose a statement of part of the remarks which I had intended to make upon the presentation of the Memorial.

"With my sincere regrets and compliments to the Court, I remain

"Very truly,

"G. F. TALBOT."

These are the remarks that Judge Talbot was to make :

"It is desired upon this occasion to make some personal remarks in respect to the late EDWARD SILSBY FARRINGTON, who held the highest federal office in the State and ably presided over the United States Court in this district for a generation.

"Supplementing the Memorial, it is deemed appropriate to pay a short tribute to the memory of the man with whom long acquaintance brought understanding and admiration.

"He possessed a rare combination of virtues. He was free from the bad habits which are too common with men. He possessed the true refinement which has tender regard for the rights and feelings of others. Although unusually free from faults himself, he was too kind and considerate to condemn or criticize the failings which are prevalent with mankind, or to say anything which if heard or conveyed might cause pain to any worthy human being. He was especially devoted to his wife and family. His love and care for his stepsons and their children excelled that of most parents for their own. He was free from false pride, approachable and kindly. He was imbued with religious tenets. Integrity and sincerity he possessed to a high degree.

"These splendid traits came partly from sterling parentage, and, as with most great and good men, largely from the influence and teaching of a Christian mother.

"In looking for his faults without seeing any, after a congenial partnership lasting four years and close friendship for over a third of a century, during a

considerable part of which time there were periods of reversed relations of occupant of the bench and practitioner at the bar, there comes to mind one of the greatest compliments ever paid to a woman by a former legislator in this State, who, when consoled upon the loss of his good wife with whom he had lived for over twenty years, replied: 'Yes, she was a good woman; if she had any faults I do not know it.'

"His life work was in two eminent professions, teaching and the administrating of justice. His great success as a lawyer and jurist was due not so much to his unusual ability and keen judgment as to his industry, his close and incessant application to the work before him. Day and night, year after year, usually without vacations, he labored in the careful and conscientious preparation and determination of the cases at hand. Labor creates and conquers, and is the only road to success in the law.

"The greatest connoisseur of mankind and human nature said that the evil men do lives after them. This cannot apply to him, for he did no evil to live after. But the influence of his amiable qualities has made and will make others better.

"He lived beyond the time allowed to average man. Friends and kindred are never ready to part with loved ones. It is wished that he could have been spared as long as Senator Cole of California, who was in the Senate when Lincoln was President, and who died recently at the age of one hundred, after practicing law in Los Angeles; or as long as Justice Holmes, an able and industrious member of the United States Supreme Court when near ninety; or as long as our beloved Edison, the light of the world and the idol of humanity, who is still active in his good work at eighty-two.

"If all men would emulate Judge FARRINGTON as a standard, there would be no oppression of the weak by the strong, nationally or individually, the sorrow and misery resulting from greed, crime and war would come no more, courts and jails would not be needed, and the

world would be Christianized indeed. Sometime this may come by governments preventing propagation of the criminally inclined, by the compulsory teaching of all children and youth to be good and industrious, and by making provision for the destitute and for relief from the necessity which leads to the commission of crime.

“A pure life filled with labor and love and crowned with honor has passed. Many friends of the departed not only extend sympathy but feel a personal loss, and join with the widow and family in mourning. May time soon soften their sorrow, may they feel consolation for having his devotion and tender care so long, and be comforted by the thought that ‘The pure in heart shall see God.’”

Chief Justice Ducker:

Gentlemen of the Bar, the Court wishes again to thank you for your expressions of admiration and affection for Judge FARRINGTON. And in further honor and respect to his memory this court will now stand adjourned for the balance of the day.