

In Memoriam

Benjamin Wilson Coleman

PROCEEDINGS
IN THE
SUPREME COURT OF THE STATE OF NEVADA

TUESDAY, March 28, 1939.

Present—Hon. E. J. L. TABER, Chief Justice;
Hon. E. A. DUCKER, Associate Justice;
Hon. WM. E. ORR, 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 BENJAMIN WILSON COLEMAN, late Chief Justice and Justice of this Court, presented the following:

MEMORIAL

To the Honorable, the Supreme Court of the State of Nevada:

Your Honors have courteously delegated to us the preparation of a suitable record to commemorate the life, character, and work of the Honorable BENJAMIN WILSON COLEMAN, and the grief of the State Bar of Nevada over the passing of your distinguished associate.

From a life replete with incidents and activities, we briefly note the following:

BENJAMIN WILSON COLEMAN

Born at Ballsville, Virginia, July 1, 1869, the year that marked the completion of the first transcontinental railway. Educated at Richmond College, now the University of Richmond, where he graduated with the degree of LL.B. in 1892. Practiced law in Denver, Colorado, 1893 to 1897, and at Cripple Creek, Colorado, 1897 to 1906. Married Martha L. Attleton of Boston, Massachusetts, June 6, 1906. Removed to Ely, Nevada,

in 1906, and practiced law in this State until elected to judicial office. Judge of the Ninth Judicial District Court, 1911 to 1914. Justice of the Supreme Court of Nevada since 1914, being reelected in 1920, 1926, 1932, and 1938. Chief Justice of the Supreme Court, 1919-1920, 1925-1926, 1931-1932, and 1937-1938. Lecturer on law of contracts at Northwestern University in the summer of 1925. Member of the Narcotic Research Association. Three times Chairman of the Board of Visitors of the University of Nevada. Member of the American Bar Association and the State Bar of Nevada. Member of the society for the Preservation of Virginia Antiquities. Member of Phi Beta Kappa and Pi Gamma Mu. Prominent in Masonic life, being a member of Knights Templar, Shrine, and Knights of Constantine and holding various offices of trust and high honor in the Masonic order. A member of, and prominent in, the Knights of Pythias. Died in Carson City, Nevada, February 25, 1939.

It is given to few men to be endowed with those qualities of personality, character, and mind which make them eminently fitted for judicial service. The ideal judge possesses a personal dignity and poise which commands respect for the court; an intensive knowledge of the law which inspires ready acceptance of and respect for his rulings; that perfect sense of justice that enables him to do equal and exact justice between litigants; that degree of humanity which makes him temper justice with mercy; and finally, that combination of characteristics that we attempt to express by the words "judicial temperament."

To you who occupied this bench with him, and likewise to us who appeared before him as advocates, it is equally well known to what a remarkable degree Justice COLEMAN possessed these essential qualities of the ideal judge. We know that the Creator gave him these qualities which he developed by his own untiring efforts, and we realize how unsparingly he drew upon them in the service of the Bar and State.

The prominence which he reached was gained from those qualities of mind and personal energy which enabled him to overcome step by step the mysteries and hardships which confront the young lawyer. He was a student of the law, alert and keen. He gave careful and systematic study to the problems presented to him, and he came to every discussion and decision with thorough preparation.

We here quote from the tribute to Justice COLEMAN by one of his distinguished judicial associates:

He was always ready to bear his share of the duties of the Court, and more than his share if the necessity arose. He was helpful to the highest degree. His great store of learning and background of experience made him a wonderful helper indeed. His discussion of cases submitted to the Court was always intelligent and direct, and carried on with the utmost candor. In these discussions he committed his opinions to his associates without reserve and paid the utmost deference to theirs. His mind was an open forum in which suggestion, argument, and authority received candid consideration. Withal, he was kindly, considerate and courteous.

While Justice COLEMAN always gave the cases mature consideration, he wrote opinions with great facility, and in those assigned to him an opinion was always delivered to his associates in prompt time. When he died he left no unfinished work of his for others.

To his closest friends he had a charm and friendly intimacy and a genial appeal that bespoke love of those human relationships that mean so much in life. He was interested in the other man and in his successes and failures. In social gatherings his vivacity and wit and quick repartee added charm to the occasion. The words that Dr. Angell applied to John Hay might appropriately be applied to Justice COLEMAN: "In company

with a group of congenial spirits he was jolly, companionable, sometimes satirical and always the best of story tellers—was prone to be reticent, exclusive, and shy, but the few who were made happy by his confidence were held in the bonds of the strongest manly friendship.”

Courteous to the Bar, preeminently fair and able in his decisions, he stimulated in the profession a respect, trust, and affection which increased as he continued on the bench, and the Bar of Nevada deeply grieves at the all too early termination of his life of usefulness and honor and their loss of a sincere friend.

We respectfully suggest that this report be spread upon the minutes of this Court and that your Clerk be directed to transmit to Mrs. Coleman an authenticated copy thereof.

Dated this 28th day of March 1939.

ROBERT M. PRICE,
Chairman.

JOHN E. ROBBINS,	CHAS. W. CANTWELL,
CHAS. LEE HORSEY,	GEORGE S. BROWN,
GEO. A. MONTROSE,	H. W. EDWARDS.

The Young Lawyer's Club also presented the following:

MEMORIAL

BENJAMIN WILSON COLEMAN

Judge BENJAMIN WILSON COLEMAN was born in Ballsville, Virginia, on July 1, 1869.

His education was received in the Virginia schools and he was graduated from the University of Richmond with an LL.B. degree in 1892. He attained high honors in being elected a member of Phi Beta Kappa, the oldest honorary scholastic society in this country, and further honors in being elected to Pi Gamma Mu.

Judge COLEMAN came west as a young attorney, settled and practiced in Aspen and Cripple Creek, Colorado, and later served as a Deputy District Attorney in one of the important Colorado mining counties.

He came to Ely, Nevada, in 1906, and three years later was elected District Judge. Judge COLEMAN was elevated to the Supreme Bench of this State in 1914, a position to which he was successfully reelected in 1920, 1926, 1932, and 1938.

By his knowledge of the law, his astuteness, and his positive passion for conformity to the principles of right, he contributed immeasurably and everlastingly to the solid foundation of justice, upon which the superstructure of the State is built.

His passing is of a particular loss to the younger members of the Bar. His sympathetic understanding, his always extended hand of help and encouragement to the young man, have left indelible impressions that molded character and integrity in the young lawyer—impressions that will be manifest in the years yet to come, when those now young will infuse into future generations his spirit and fidelity to our profession—impressions that will be manifest even when his name has been lost from memory by the inexorable passing of time.

Non recedat memoria eius, et nomen eius requiretur a generatione in generatione.

Be it, therefore,

Resolved, That the members of the Young Lawyers Club extend to his stricken widow and family their deepest sympathy, and that a copy hereof be forwarded to Mrs. Coleman.

Respectfully submitted this twenty-eighth day of March 1939.

YOUNG LAWYERS CLUB.

THOMAS O. CRAVEN,
ALAN BIBLE,
OLIVER CUSTER.

In addition to the above memorials, members of the Bar and of the Court addressed the Court as follows:

Robert M. Price, Esq.:

I did not contemplate making any remarks other than

through the memorial which the committee had prepared. I was on rather intimate terms with Judge COLEMAN, and I have thoroughly appreciated the fine sterling qualities in the man and his ability as a judge and a lawyer. At meetings where I have been present and he has also been there, his geniality infused itself through the group. He added greatly to the charm of the meetings which I had the privilege of attending with him. He was thoughtful, and, as stated in our resolutions, he was interested in the other fellow and in his successes and his failures. He had that broad point of view that so comparatively few persons have. I feel there has been a great loss to the State, likewise to the profession, in his early passing.

George S. Brown, Esq.:

It was my privilege to have known Justice COLEMAN probably longer than anyone else present here, on the Bench or at the Bar. I became acquainted with him very shortly after he removed from Colorado to Ely. At that time I was District Judge, holding court in White Pine County as well as in other counties. Soon after his arrival in Ely I met Judge COLEMAN, then BEN COLEMAN to me, as he was for many years, and soon came to appreciate his very fine, sterling character, his high feeling with reference to the ethics of the profession, and his ability as a lawyer. He appeared before me in a number of cases over there in White Pine County, was one of my successors on the bench there, and I am proud, gentlemen, of my successors.

I knew Judge COLEMAN perhaps less intimately after he came over here to the Supreme Court than you gentlemen who were associated with him here for years, but I always valued his friendship and found pleasure in our personal meetings. He had that geniality of manner, that charm and magnetism which added to the enjoyment of every gathering in which he was present. I saw him only a few days before his demise, and news of his death came to me, as it came to all of

us, as a great shock. We all have lost a friend. He was a man easy to make friends with because his character invited friendship. I know that I, personally, lost a friend when he went away. We of the Bar, as well as you of the Bench, mourn his going. We feel that his spirit still will be with us. We cannot fail to cherish his memory, because he was of the kind of man one does not forget.

Charles A. Cantwell, Esq.:

Your Honors, may I tell you first how deeply I feel the honor that you gentlemen have conferred upon me in asking me to serve upon the committee charged with the preparation of the record which has been submitted to you by Mr. Price. My signing of that memorial was not a mere formality. I wish at this time to do nothing more than assure you that personally I feel everything that is therein expressed. And may I ask you now not to take the brevity of my remarks on this occasion as indicating any lack of sincerity.

H. W. Edwards, Esq.:

I had both the privilege and the honor of knowing Judge COLEMAN when I was a young man living in Ely, Nevada. He passed my house on his way home and stopped to chat with me almost every evening. I was a frequent visitor at his Chambers at his invitation, where he encouraged and helped me in my aspiration to become a lawyer.

Words are futile things to express my sorrow at the passing of Judge COLEMAN. He was a friend of mine. He fulfilled the qualifications that revealed the true character of a man, for—

The true place to take the measure of a man is not in the field or forum, not in the market place or the Amen corner, but at his own fireside. For there he lays aside the mask that all men wear and you may tell whether he is imp or angel, king or cur, hero

or humbug. It matters not what the world may say of him. It may crown him with mays or pelt him with bad eggs. He may cry Hallelujah night and morn until he shakes the eternal hills, but if his children dread his homecoming and his wife has to swallow her heart every time she must ask him for a five-dollar bill, he is a fraud of the first water; but if his children rush to greet him at the doorway and love's glorious sunshine illumines the face of his wife when she hears his footfall, you may tell that is pure gold, and the humbug never gets that near to the Great White Throne of God.

George A. Montrose, President of Nevada State Bar:

I have had a long acquaintance with Judge COLEMAN, since my newspaper days, when he first came to the State. It so happened that a little joke arose at one time and I was dubbed "Colonel," and you who have seen us together have always heard him call me "Colonel."

A Nevada poet once said:

"There are times for retrospection
When the past is brought to view
And you mass the faded garlands,
In the garden where they grew.
And some with rainbow hues are tinged,
Round others shadows play.
The first were well to cherish,
And the last to cast away."

There were no shadows around the life of Judge COLEMAN. He walked in the broadest daylight; he was always there to be seen, to be heard.

We of the State Bar of Nevada are deeply grieved at his passing, and feel we have indeed lost a friend. When the State Bar of Nevada was incorporated, Judge COLEMAN was one of its best friends; and throughout

the years that have followed he remained one of its best friends.

John A. Sanders, Former Justice and Chief Justice of the Supreme Court of the State of Nevada:

It is a personal satisfaction to me to know that this beautiful tribute so earnestly couched in affectionate words will be recorded in the minutes of this Court and live as a memorial and a pleasant chapter in whatever volume of the Nevada Report it may be published, for the edification of the young members of the Bar, that they may read it and be careful to thereby measure their course in the practice of the law.

I shall not even mention the sacred personal relations that existed for eighteen years between Judge COLEMAN and myself as Justices of this Court. We were born in the same State; and in that connection, it had been said that it would never do to have two members of the Supreme Court from the same State. Justice COLEMAN'S reply to this criticism was: "If you go to the law library, read the reports and review the history of Virginia, you will find that the high mark of Virginia history was in its judiciary and in its legal profession."

With unexpressed emotion, I concur in the resolutions and the beautiful tributes to his character and memory.

Gray Mashburn, Attorney-General of Nevada:

I did not expect to be called upon or to have anything at all to say on this occasion, as the program seemed quite full and complete. I have not, therefore, prepared any remarks and what I say must, therefore, be entirely extemporaneous.

I had known and had been quite closely associated with Justice COLEMAN many years prior to his untimely and tragic passing to the Great Beyond. As I saw it, his outstanding characteristics were his frankness and sincerity. Above everything else he was frank and sincere; but, for all that, he was very tolerant toward

those who differed in opinions from him. I have never known or been associated with a man who had more tolerance for the faults and frailties of others than had Justice COLEMAN. Although tolerant toward the views of others, he was courageous and outspoken in his own views and opinions. He was a man any person might well be proud to count as a friend; and his friendship was strong, ardent, and sincere, and his loyalty to his friends was constant. There was no waivering or uncertainty in him or in his views. He knew his mind and did not hesitate to express it, candidly and with frankness, but never so as to intentionally or purposely and unnecessarily offend.

The Judiciary of this State has lost an outstanding jurist, and the Bench has been enriched by his services upon it. The State and Nation a loyal and substantial citizen, the community a public-spirited supporter, and his family a loving and considerate husband and father. He was an industrious and assiduous student and worker, and tireless in his efforts to perform his official duties with justice, fairness, and impartiality to all concerned.

In closing, may I recite the following beautiful verse as representing my thought of the end when it came to him.

“And here, at last, is sleep, the gift of gifts,
The tender nurse who lifts
The soul grown weary of the waking world,
And lays it, with its thoughts all furled,
Its fears forgotten, and its passions still,
On the deep bosom of the Eternal Will.”

Justice Wm. E. Orr:

It was not my privilege to know Justice COLEMAN intimately. Distance between our respective abodes made frequent visits impracticable. But the times I have had the privilege of meeting Justice COLEMAN remain with me as pleasant memories.

The knowledge of the sterling qualities of Judge

COLEMAN was not confined to the circle of his intimates; he was known, by his accomplishments, beyond the boundaries of the State.

To those of us who have occupied the bench in the District Courts throughout the State his decisions were as friendly beacons, directing our efforts to interpret the law in accordance with sound principles and a high sense of justice.

I join with the members of the Bar and the Bench in saying that I sincerely believe that in the passing of Judge COLEMAN the Bench lost a great Justice, and the State of Nevada a great citizen.

Judge COLEMAN has gone, but his work will endure.

Chief Justice Taber:

If there is one man who knows better than any other the outstanding and admirable qualities and traits of the late Justice COLEMAN, it is surely Justice DUCKER, who for so many years sat with him and presided in this Court. It seems particularly fitting and appropriate that we should call upon Justice Ducker to speak for the Court on this occasion.

Justice Ducker:

The committee has returned into this Court, to remain always on its records, a most appropriate memorial for our late associate, Justice BENJAMIN W. COLEMAN. I wish to join Chief Justice TABER in thanking the chairman and the other members of the committee for this memorial. I also join the Chief Justice in commending the younger attorneys for their testimonial of respect and admiration, as well as the other attorneys for their tributes.

While he was a friend of all the members of the Bar, Justice COLEMAN was particularly a friend of the younger attorneys. He sympathized with them in their struggles, and encouraged them in their ambitions. He sought every opportunity to counsel them. They have indeed lost a guide, philosopher, and friend.

Justice COLEMAN devoted many years of his life to the service of this State and died in that service. They were years that were effective and fruitful in intellectual achievement. Before his elevation to this Bench he served with distinction a full term as District Judge in a District Court of this State. The bright history of our Supreme Court has been greatly enriched by reason of the faithful and intelligent service he rendered here during a long period of over twenty-four years. His judicial opinions rank very high in the legal world. They are couched in simple and forceful language, denoting clearly what was intended and decided. They bear the impress of a trained intellect.

No personal or other extraneous consideration ever entered his mind in the performance of his duties as a judge. He never looked beyond the confines of a case for inspiration, but derived it from the record before him through the process of a mind facile in reaching sound conclusions and bent on the attainment of justice. I am sure the lawyers who appeared before him in the respective cases through the years trusted implicitly in his judicial integrity, and admired his great abilities. It was not alone in the law he was learned; his scholastic attainments were varied.

His private character, like his public character, was one of stern integrity. He was a man of principle, purpose, and will, impulsive by nature, yet withal kindly and considerate in disposition. The rich humanity of this character, the charitable impulses of his heart, were manifested by many generous acts. His rare conversational powers and altogether charming personality made him a delightful companion in private and social circles. He was devoted to his family, to whom he leaves the rich inheritance of a spotless name. He was deeply interested in the welfare of his neighbors and the people generally. It was my privilege to serve with him in this Supreme Court constantly during the past twenty years. He was an ideal associate, not only on account of his bountiful store of legal knowledge and

aptitude for juristic work, but because of that fine personality which made contact with him in the solution of mutual problems a pleasure indeed. His uniform willingness and anxiety to be helpful in this respect made less arduous the labors of the Court. His experience and learning, his keen discriminating mind and diligent methods equipped him to cope with legal questions with great facility. The opinions of the Court which fell to his lot to write were always promptly submitted for the consideration of his associates. He died in the fullness of his fame, leaving no unfinished work of his for others to do. Justice COLEMAN kept faith and finished the course in a courageous, manly, and forthright manner. He has taken his place in the temple of memory beside the former great jurists who have adorned this Bench.

The years we spent together in this Court were happy years of congenial employment—happy years of striving and cooperating towards the objectives of this Supreme Tribunal. They brought us into the closest friendship. I shall miss him in the daily round of life as one familiar and beloved. His figure in the moving crowd before my memory will always speak of that rare fellowship which I had the precious privilege to enjoy. Nothing low or mean ever came near the mind or heart of Justice COLEMAN. He lived well. He laughed freely. He thought deeply, and he worked hard. He died poor in worldly goods but rich in the golden opinions of those he served.

Chief Justice Taber:

It was just thirty-two years ago today that Justice COLEMAN was admitted to the Bar of this State. I first knew him in Ely, when he, Judge DUCKER, and I were district judges. I remember how cordially I was received in his home, both by Mrs. Coleman and himself.

I am so thoroughly in accord with everything that has been said here today that I shall not take the time to say many of the things I should like to say.

In the four years during which I have been associated with Justice COLEMAN, I have been placed in a position which enables me to bear witness to the brilliancy of his intellect, his uprightness as a judge, and the purity of his private life.

Ten years ago, as Chief Justice of this Court, Judge COLEMAN, speaking from the Bench concerning another eminent judge, stated that the highest tribute he could pay him was to say he was an ideal man, an ideal citizen, and an ideal judge. How appropriate and fitting those words are now applied to Justice COLEMAN himself.

Mr. Price and other members of the committee, the Court thanks you. And Mr. Craven and Mr. Bible, we thank your committee also. We appreciate the fact that you have all given generously of your time in order that fitting memorial tributes might be paid to the memory of Justice COLEMAN, and such tributes perpetuated in the records of this Court. And we thank each and every one of you who have addressed the Court for the kind words you have spoken, tributes so richly deserved by our departed friend and brother, and with which we are most completely in accord. We extend our profound and heartfelt sympathy to Mrs. Coleman, the children, and the other relatives. Their consolation must come from the knowledge and realization of a noble life spent in the unselfish service of God, country, and State, and in loving devotion to his family and his fellow men.

Mrs. Clerk, it is now ordered that a copy of the resolutions presented by the Committee for the Young Lawyers' Club be spread upon the minutes of this Court, and that copies of them be sent to the family of the deceased and to the Secretary of the State Bar of Nevada. And as a mark of the esteem and respect of the Bench and Bar of this State, it is now ordered that the resolutions this day presented by the Committee of the State Bar of Nevada appointed for that purpose be received, filed, and entered at length upon the records of the Court, that certified copies of them be sent to the

family of the deceased, and to the Secretary of the State Bar of Nevada, and that said resolutions be published in the next volume of the Nevada Reports.

And as a further testimonial to the revered and honored memory of Justice COLEMAN, this Court, in which he has so ably served and presided for so many years, now stands adjourned.
