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ISAAC F. REDFIELD.

As already briefly announced in our last issue, this distinguished jurist died at his residence in Charlestown, Mass., on March 23d 1876. So great a loss to the science of jurisprudence cannot be passed by without some notice, especially in a law journal with which he was so long and so intimately connected, and in which he had made himself no less the friend than the instructor of the entire legal profession of the United States.

ISAAC FLETCHER REDFIELD was the oldest of twelve children of Dr. Peleg Redfield, an eminent physician, and was born April 10th 1804, at Weathersfield, Vermont. He graduated at Dartmouth College in the class of 1825 and was admitted to the bar of Vermont in 1827. After practising at Derby for eight years, during the last three of which he was attorney of the state for Orleans county, he was in 1835, at the early age of thirty-one, elected by the legislature of Vermont to the bench of the Supreme Court, and held that position by successive annual elections until 1860, when he resigned, or rather declined a re-election. For the last eight years of this period he was Chief Justice of the court. From 1857 to 1861 he was also Professor of Medical Jurisprudence in Dartmouth College, succeeding the Hon. Joel Parker. In 1861 he removed to Massachusetts, where he continued to reside until his death, with the exception of a year or so, in 1867 and 1868, which he spent in England and France, as special counsel for the United States, by appointment from the State Department, to look after

the interests of the Government in the property that had belonged to the Confederate states at the close of the war.

These few events mark the outlines of his public life, but they give little indication, except to the instructed, of the steady industry, the activity of mind and the amount of useful labor accomplished during more than the third of a century.

During all the time that Judge REDFIELD sat upon the bench, the duties of a judge of the Supreme Court of Vermont were extremely arduous. The court consisted during most of the time of five judges, who held separate circuit courts for jury trials, were *ex officio* chancellors, and heard and determined many important cases in equity, besides sitting in banc for several months each year for the final decision of all questions of common law and equity upon writs of error and appeals. During the first few years that Judge REDFIELD occupied the bench, the judges also, under a statute of the state, reported their own decisions. All of these varied and exacting duties he performed, not only to the satisfaction of his own bar, but to the great reputation of his court and himself throughout the country. His decisions extend from the eighth to the thirty-third volume of Vermont Reports, inclusive, and long before he left the bench they had established for him a national reputation as a wise, learned and able jurist.

Great and permanent, however, as is his reputation as a judge, it is probable that he was even more widely known to the profession of the present day as a law-writer. Notwithstanding the constant and engrossing labors of his judicial position, Judge REDFIELD found time, while still on the bench, to write a text-book on the Law of Railways, published in 1857, which at once became the accepted authority as the repository of the American law on that important subject, and, after passing through five editions, remains without a rival at the present day. It is probable that the success of this work, combined with his desire for a more settled and domestic life than was possible under the requirements of circuit duty on the bench, led him, in 1860, to the resolution to resign, and devote himself more exclusively thereafter to the literature of the law. The weight of advancing years he could scarcely have felt. Erect, and active in body as well as mind, he still lacked four years of the age at which the Procrustean laws of New York had declared Chancellor KENT unfit for longer judicial service, and at fifty-six he, like the great chancellor, was in his prime, and like

him, too, he devoted the remaining years of his mature intellect to the instruction of his professional brethren by his pen. In 1864 he published the first volume of an elaborate work on the Law of Wills, which was subsequently expanded, in successive editions, to three volumes, covering the entire subject. Every lawyer will appreciate the magnitude of such a labor. Few states, except the youngest of the union, fail to afford, by themselves, cases enough on this prolific subject to fill a text-book, and the task of collecting, arranging and collating them, and extracting the rules of decision from the vast and incongruous mass, is one that might well appal a less industrious and courageous man. This, like his preceding work, had a marked success, and the author was engaged in the last touches of a new edition at the time of his death. Besides these principal works, Judge REDFIELD published, in 1869, a treatise on the Law of Carriers and Bailments, which was, however, mainly a condensation, and more convenient form, of the parts of his work on Railways relating to those subjects; in 1870-1872, a collection, in two volumes, of Leading American Railway Cases, with notes; in 1871, in connection with Mr. M. M. BIGELOW, a collection of Leading American Cases, on the Law of Bills of Exchange, Promissory Notes and Checks, with notes; a volume of Leading American Cases on the Law of Wills, with notes; and also edited, with great care and learning, Greenleaf on Evidence, Story on Agency, on the Conflict of Laws, on Equity Jurisprudence, and on Equity Pleadings.

In 1861 Judge REDFIELD became one of the editors of the American Law Register, and from that time to the present, few numbers have been issued without an article or an annotation by him upon a leading case. Of the extent and importance of these labors our readers do not need to be told. Covering in their range every branch of the law, and every variety of treatment, from a brief pertinent criticism of the case itself up to the most learned and elaborate monograph on the subject suggested by it, they have exhibited the depth and breadth of his learning, the facility of his command of legal principles, the high integrity and fearless independence of his personal character. These qualities, no less than the warmth of his heart, had made him seem a friend to all his readers, whose monthly visits every one will regret to have so unexpectedly terminated.

Among the articles which he has thus furnished to our pages

during the last fifteen years were many of great importance, to which he gave much thought and labor. As specimens we may mention those on Street Railways, vol. 1, N. S., 193; Mortgages, vol. 2, p. 1; the Conflict of Laws Affecting Marriage and Divorce, vol. 3, p. 193; the Responsibilities and Duties of Express Carriers, vol. 5, p. 1; Regulations of Inter-state Traffic by Congress, vol. 13, p. 1; the Law applicable to the Negotiation of Contracts by Telegraph, vol. 14, p. 401; and the Right and Power of Eminent Domain in the National Government, in the April number of the present year. These articles he regarded as among his best work; he took pleasure in them and in the fact that in them he was addressing the entire professional audience of the country, who, through these writings, had become his admirers and friends. His last work was the correction of the proofs of the article on Eminent Domain in the April number. Besides this, he had prepared some notes to cases which will yet appear in our pages during the next few months.

His writings were characterized by breadth and liberality of views, by clearness and force as well as originality of opinion, by a conservatism as cautious as it was free from timidity or fogynism, and by great learning, not only in case law, but in fundamental legal principles which he handled with the ease that comes from long familiarity. He wrote rapidly, with the facility of a full man. Hence his style was perhaps always a little diffuse and occasionally lacking in grace, but, however hasty, it never degenerated into inaccuracy of thought or even into obscurity of expression.

In this day of the diffusion of education and the multiplication of books, perhaps it can hardly be said, as COKE, paraphrasing Seneca, says of Littleton, that "when a great learned man (who is long in making) dieth, much learning dieth with him." Yet in a considerable sense it is true even now that a ripe and experienced scholar in the law leaves a gap which can never be quite filled. A certain command of questions from having grown up with them from their cradle to their maturity, does die with the learned of their own day and generation. The times change and the questions which command attention in the law change with them. The rules which have prevailed in the contest of yesterday become settled, and to-morrow are accepted upon didactic authority, while the reason which inquires and disputes and struggles, goes forward to new battles over

problems still unsolved. But the learning which accepts accomplished facts upon authority is never quite as complete, as intimate, as stereoscopic in its view, as that which has watched their growth and knows all their parts from its own observation. In this sense the learning of each generation dies with it, and in this sense it may be said that upon certain subjects which he had made peculiarly his own the authority of Judge REDFIELD'S opinion cannot be replaced. Notably is this the case upon railroad law. The whole of it had grown up while he was in active life; it was familiar to him from its modest beginnings until it had assumed its present vast proportions, as the heaviest title in American litigation. It was his favorite field in the law, and he grew with it, and kept pace with its constant expansion. It is certainly rather remarkable that, although he was a life-long Democrat, and had received his political education while the strict constructionist school had the unquestioned control of that party, yet he adopted in his latter years what may be called the new school of latitudinarian construction of the constitutional powers of Congress over railroad lines running through more than one state, and indeed over all questions of inter-state traffic. That he not only entertained but advocated these views, is a striking evidence of the honesty of his convictions and the courage of his character.

As already said, Judge REDFIELD was a Democrat from early life, and the adoption of such opinions at a time and in a place where the Democratic party was in a hopeless minority, required no small degree of courage, as well as sincerity. In this connection, mention must not be omitted of the most remarkable incident of his life, honorable alike to him and to his state, and without a parallel in American judicial history. The legislature by which he was elected to the Supreme Court of Vermont in 1835 was strongly opposed to him in political opinion, and so continued for the twenty-five years through which, by successive annual elections, he was retained in that position. A greater tribute to qualifications for his position was never paid to any judge in any country.

But though a Democrat he was in no present sense of the term a politician. He was, above all things, a lawyer. Perhaps his most remarkable quality was the warmth and strength of his love of justice, combined with his sense of the value of the principle of *stare decisis*. He stood by the law as a general rule of action;

he believed in the existence of a science of administrative justice, and recognised clearly that choice of evils which every judge so often encounters between individual hardship and the breaking down of a salutary rule. In such cases he stood firmly upon the ancient ways, but he never yielded to a result which failed to do individual justice, except under compulsion.

Apart from his professional eminence, Judge REDFIELD presented traits of character to command affection and respect. His manners were frank and simple, free from all arrogance or affectation, and especially free from all petty jealousy of younger men. And these outward qualities were the natural manifestations of a kind and genial heart. Long habit of ultimate decision had made him direct and positive in the expression of his opinions, and he had a high estimate of the province of a legal journalist. These qualities, combined with the natural warmth of his feelings which years never cooled, led him sometimes to great freedom of criticism and the use of very direct language. But nothing could exceed the amiable readiness with which he changed any expression which could be calculated to give pain or injure the sensibilities of another. In 1862, if a personal illustration may be pardoned, the writer, many years Judge REDFIELD's junior, assumed the responsible position of managing editor of this journal. In the constant correspondence of fourteen years since then, no suggestion that hinted at avoiding offence or respecting the feelings of others, ever failed to meet an immediate and cheerful response to alter or strike out anything that tended, however remotely, to such results. In his response to the address of the bar, on his retirement from the bench in 1860, he has himself well expressed his own character in this respect, and we cannot better close this hasty and inadequate memoir than by a brief extract from his own language:—

“GENTLEMEN OF THE BAR:—In reply to your very flattering address, you may be sure that it gives me sincere and grateful satisfaction to receive such a testimony of your confidence and respect toward me, and especially in regard to my public services. They have indeed been performed under circumstances of very marked peculiarity, to which you have very appropriately alluded. But while my position has been, in some respects, more trying in consequence of its delicacy, it has been in other respects favorable to the cultivation of those feelings and opinions which are indispensable to judicial impartiality and independence. For while it has left me without any such reliance

as those in the majority may safely count upon in those popular prejudices or commotions which will sometimes occur, and are liable to affect the popular estimate of all men and all judges, who hold their tenure of office by annual elections, through accident or misfortune, it may be, and without fault or infirmity even, such a support, it is not to be denied, in such case, is always agreeable to the feelings; it has, nevertheless, compelled me to devote myself with the more perfect single-heartedness to the discharge of my public duties; and has at the same time weaned me from all embarrassing interest in the course or the results of mere partisan policies, without in the least diminishing my study of, and my interest in, those great social and moral, not to say religious problems, which lie at the foundation of all true greatness and respect, as well in empires and states, as with individuals. And among these I have never allowed myself to feel, for a moment, that I was at liberty to forget that an abiding and unaffected respect for the law and its regularly constituted ministers, whatever might be my private opinions of the wisdom of the one or the good character or conduct of the other, must certainly be reckoned. And in this view I have always, and under all circumstances, felt it my duty to study to vindicate all laws, however odious, from that contumely and reproach which the well-disposed and truly patriotic will sometimes thoughtlessly heap upon the constitution or the laws of the state or the nation, without reflecting that, in so doing, they are doing all in their power to destroy that respect for law and order in society which is the only guaranty in free states, against outrage and abuse, from the reckless violence of the mob or the assassin, on the one hand, or of overbearing and unscrupulous majorities on the other.

“I have thus made it my study to do nothing, and to say nothing, calculated to offend the sensibilities of others, unless from a strict sense of duty, and in vindication of those great moral truths which underlie the very foundations of all domestic, social and civil institutions, and then not obtrusively or offensively, I trust, but none the less fearlessly.”

These truthful words, spoken with modest but manly candor, describe his character as fitly as any more elaborate panegyric. In all his relations, as a jurist and as a man, he was a citizen whom any state might be proud to set before her younger sons as a model for emulation.

J. T. M.