

WILLIAM STRONG

There is no name more thoroughly associated with Oregon and Washington judicature than that of William Strong. His marked characteristics are indelibly impressed upon the system of law of both states, especially that of the latter. To long and distinguished service as associate justice of the supreme court, and in the ex-officio character of judge of the district courts in both states while they were territorial governments, and also his brilliant career as a law practitioner, for over a generation, in all the courts of both states.

He was born at St. Albans, Vermont, on the 15th day of July, 1817. His youth was spent in the vicinity of Rushville, New York, where he received his preparatory education. At the age of seventeen he entered Yale College, from which he graduated with distinguished honors in the class of 1838. Having selected the law for his profession, he engaged in teaching the ensuing two years, whereby he earned those means which contributed largely to enable him to gratify his desire. So ambitious was he that, by industry and close application to study in the intervals from teaching, he had made sufficient progress in his studies to secure a license in 1840 to practice law. Admitted to the bar, he immediately removed to Cleveland, Ohio, and at once entered upon a large and lucrative practice, and took a foremost rank in the profession. On the 15th of October, 1840, he married Lucretia Robinson, whom he survived but about two years.

In 1849, having resolved upon migrating to Oregon, his many friends procured for him, September 17, 1849, the appointment by President Zachary Taylor of associate justice of the supreme court of the Oregon Territory, to succeed the Honorable Peter H. Burnett, an appointee of President James K. Polk, who had removed to California, and had declined the appointment. At about the same date, Major John P. Gaines of Kentucky had received the appointment of Governor; and General Edward Hamilton of Ohio had been commissioned secretary of the territory. The writer of this tribute to his departed friend cannot forego quoting from that most interesting paper, the annual address of Honorable William Strong at the sixth annual reunion, 1878, of the Oregon Pioneers. It happily illustrates that direct form of expression, that plain, unassuming style, that occasional quaintness of thought and expression which abound in his speeches, opinions and numerous contributions for the press. There are also presented the evidences of his careful observation and remembrance of every incident which chronicles the growth or progress of places visited. How pleasant, too, that retrospect of Oregon as it was when he first entered the great Columbia. How hopeful he was of its assured future. In that address, the voyage to this country of that distinguished party of Oregon's early and surely most-talked-about "Federal Officials" was thus referred to:

"The United States storeship SUPPLY was, when we were appointed,

fitted out at the Brooklyn navy yard for a voyage to San Francisco with stores for the Pacific squadron; and our party was tendered a passage on her, but were required to find our own supplies. * * * We accepted the offer; and on the 3rd day of January, 1850, our party, consisting of Governor Gaines and family, General Hamilton and family, and myself and family, set sail from New York City for Oregon. * * * At Rio Janeiro, where we first stopped, we met the wife of Mr. Morehead, late United States consul at Valparaiso, on her way home, a passenger in the United States frigate Saratoga. * * * As San Francisco was the end of the voyage of the Supply, we exchanged vessels there and came to Oregon on the sloop-of-war Falmouth, Commander Pettigrew, arriving at Astoria on the 14th day of August, 1850. Our voyage consumed seven months and eleven days, -- two hundred and twenty-four days in all. As we stopped nine days at Rio Janeiro, twenty-one at St. Catherine's, ten at Valparaiso and ten at San Francisco, in all fifty days, our sailing times was one hundred and seventy-four days. Our ship was a fine sailer, and might have made the voyage in much shorter time; but government vessels are not pressed as are merchant ships. They take their time, and exercise unusual prudence in making and shortening sail.

There was nothing of particular interest in the voyage to the public. Except for the great length of time consumed, it was more comfortable and pleasant than either of the other modes of moving a family to Oregon could have been. Our stoppage at St. Catherine, a part three hundred miles south of Rio, was rendered necessary on account of the yellow fever, which we took aboard at Rio. Some of our party, and a large part of the crew and officers, were taken down with it. At one time it seemed as if the ship would be entirely disabled before we could reach a port. It proved fatal, however, in only four cases. Our eldest son, four and a half years of age, was the first victim, and was buried at sea in the Atlantic, whose waves washed the distant shores of his native land. A young seaman, in whom we all took great interest, next died; and Governor Gaines lost two daughters, interesting and accomplished young ladies, who had been the life of our party.

It was a bright and beautiful morning when we entered the Columbia. The air was delightful, the scenery grand. The shores were covered with a dense green foliage, the hills crowned with magnificent evergreens. On our voyage up the western coast of South America, we had seen little except brown and hazy sunburnt mountains. Nothing green was visible. Around the Bay of San Francisco, everything at that season of the year looked burned over, consuming the crop of wild oats with which they had been luxuriantly covered, presented a black and desolate appearance. The great contrast which the shores of the Columbia presented was cheering to the heart. The first impressions of our new home were delightful.

When Astoria was pointed out as we reached the point below, I

confess to a feeling of disappointment. Astoria, the oldest and most famous town in Oregon, we had expected to find a larger place. We saw before us a straggling hamlet consisting of a dozen or so of small houses, irregularly planted along the river bank, shut in by the dense forest. We became reconciled, and, indeed, somewhat elevated in our feelings, when we visited the shore, and by its enterprising proprietors were shown the beauties of the place. There were avenues and streets, squares and public parks, wharves and warehouses, churches, schools and theaters, and an immense population, -- all upon the map. Those proprietors were men of large ideas, large hopes. They assured us that in a short time Astoria was to become the commercial metropolis of the Pacific coast. Some of those proprietors have passed away and gone where they are beyond the reach of hope or fear. Some remain; and, though their eyes sparkle and brighten when they talk of the future grandeur of Astoria, they manifest a slight feeling of sadness, and drop the subject with the remark: 'This may not be in our day; but it will surely come.' You and I may not see it; but our children will'.

Astoria at that time was a small place, or rather two places, -- the upper and lower town, -- between which there was great rivalry. They were about a mile apart, with no road connecting them except by water and along the beach. The upper town was known to the people of Lower Astoria as Adairville. The lower town was designated by its rival as Old Fort George, or McClure's Astoria. A road between the two places would have weakened the differences of both, isolation being the protection of either. In the upper town was the custom-house, in the lower two companies of the First United States Engineers, under command of Major J. S. Hathaway. There were not, excepting the military and those attached to them, and the custom-house officials, to the best of my recollection, to exceed twenty-five men in both towns.

At the time of our arrival in the country, there was considerable commerce carried on, principally in sailing vessels, between the Columbia river and San Francisco. The exports were chiefly lumber, the imports general merchandise."

At the time when Judge Strong entered upon the performance of his official duties, Oregon embraced all of the territory west of the Rocky Mountains lying between forty-two degrees north latitude (the northern boundary of California) and the forty-ninth parallel of north latitude (the southern boundary of British Columbia). That immense area was divided into three judicial districts to each of which was assigned one of the justices of the Oregon Supreme Court, as presiding judge of the courts in their respective district. The third judicial district of Oregon Territory comprised all of Oregon north of the Columbia River, and the county of Clatsop south of that river. There were no organized counties east of Clarke County at that time; but that county extended eastward to the Rocky Mountains. The other county north of the river was named Lewis; it extended northward to the British boundary. Thus it was that Judge Strong's district included all of what is now Washington's Territory, Idaho and Montana north of the forty-sixth

parallel, and west of the Rockies, besides the county of Clatsop in Oregon, of which Astoria is the county seat.

During the winter of 1850-51, Judge Strong with his family resided at Vancouver, and in the early spring of 1851, he took a claim at Cathlamet on the north side of the Columbia river, under the Donation act of September 27, 1850, which required four years' residence upon the land, and where he resided until his removal to Portland, Oregon, in 1862. This is not the place in which to chronicle the proceedings in detail of the courts over which Judge Strong presided. His judicial life was commenced in Oregon when party spirit ran high, when politics to a great extent became matters of personal difference, when differences as to political questions were made the occasions to mar and destroy social relations, to alienate and estrange personal friends and neighbors. This strange result arose from local issues, from the intensity of personal feeling growing out of the location, or rather the removal of the seat of government. It became necessary for the supreme court of the territory to decide where the seat of government was located. It so happened that the dominant party in the territory made the capital removal a party question; and it was perhaps unfortunate that the majority or quorum of the supreme court, appointees of a Whig national administration, viewed the law which they were called upon to administer as inoperative to effect that removal.

During all the years of Judge Strong's first judicial term, that and kindred questions were constantly agitated and embroiling the public mind. Never were judges more severely denounced, more the subjects of personal and malevolent attack, than were Justices Nelson and Strong, the quorum of the supreme court who decided that the Omnibus bill, as it was called (which had provided for the location of the seat of government at Salem, and for a commission to supervise the erection of the capitol buildings thereat; the location of a university, and for a commission to sell the university lands to provide funds for its erection; and nominating the site as also providing for the building of a penitentiary, as also a commission to build it), was inoperative and void under the Organic act, because it included more than one object, and the title of the bill clearly failed to express its object. Unawed and unmoved, the quorum of the supreme court met at Oregon City, the place by them decided as the seat of government. They calmly heard the question argued; bravely and judiciously, in opinions creditable for ability and for evidence of painstaking consideration, each filed an opinion announcing the conclusion reached. There is no necessity to call back any humiliating incidents which mark those years of Oregon politics or social life. After well nigh two score of years completed, who will attempt to detract from any honors sought to be accorded to the scholarly and gentlemanly Chief Justice Nelson? Who will stop short in hearty commendation of the ability and integrity which marked the judicial career of his more vigorous and stalwart brother Strong in those troublous stormy days, when juridical administration had become the issue whereby partisan rancor was kindled? Nor will it be denied that each possessed to an eminent degree those four motives or qualities which the wise Socrates has said must actuate the Judge: "To hear courteously, to answer wisely, to consider soberly, and to decide impartially."

Judge Strong was still on the bench when Washington Territory was (March 2, 1853) set off from Oregon. In the whole of that newly created territory, as defined by its Organic Act, he continued to act as sole judge until Governor Stevens' proclamation, late in November, divided the territory into three judicial districts, and assigned to each, one of the judges of the supreme court of Washington territory appointed by President Franklin Pierce. The first legislature of Washington Territory was in politics Democratic; yet William Strong, the late Whig judge, was by a unanimous vote associated with Chief Justice Edward Lander and Associate Justice Victor Monroe as a commission to sit during the session of the legislature to report laws from day to day. That commission worked laboriously; but it is not derogatory to either of the other members to say that by far the largest portion of the body of law enacted at that first session was reported in the admirable clerical hand of Judge Strong. But little of his work needed revision or rewriting. Judge Lander gave as much time and valuable service as did Judge Strong; but the clerk of the commission was obliged, in laws reported by him, to make copies. That body of law was very generally enacted with little or no alteration, and was infinitely better when first adopted than now, with the innovations of a quarter century's legislation.

After the close of that session, Judge Strong retired to his residence at Cathlamet. For the next few years he divided his time between practicing law in the various courts of Oregon and Washington, in which he was employed in almost every suit of importance, and in surveying the public lands, at which he was a thorough adept, and for which he took several government contracts.

In May 1855, he received the Whig nomination for delegate to Congress. He and the Democratic nominee, Colonel J. Patton Anderson, made a joint canvass of the territory, which was ably conducted; nor were the amenities of social life and the relations of gentlemen ever ignored. Washington Territory was thoroughly Democratic. Judge Strong received his full party vote, which was all that he had any right to expect against his gallant and generous competitor. At the breaking out of the Indian hostilities, in the fall of 1855, when Governor Mason called for two companies of volunteers in response to a requisition of Major Rains, U. S. Army, Commander of the Columbia River and Puget Sound district, one to rendezvous at Vancouver and report to Major Rains, Judge Strong raised a company and was unanimously elected its captain. That company was known as Company A, First Regiment Washington Territory Volunteers. It was mustered into the United States service, and performed considerable duty in Clarke county and vicinity. The company prayed to be sent to the upper country to escort Governor Stevens on his return from the Blackfoot council through the hostile Indian country; but so hostile was General Wool, then commanding the Department of the Pacific, to Governor Stevens and the two territories, that against the urgent protest of Captain Strong he disbanded Company A before their term of enlistment had expired.

In April and May 1856, Governor Stevens caused the arrest of certain persons in Pierce county, Washington Territory, who, being intermarried with Indian women and living in the hostile region, were suspected

and accused of furnishing the hostile Indians with supplies and information, that led to a serious and protracted conflict between the courts and the territorial military authorities. Judge Strong was retained by the governor as his law adviser. Perhaps it would be proper to say that his duties partook of the nature of attorney-general, as also of judge-advocate-general on the governor's staff, although no commission was issued to him. That clientage necessitated the most intimate confidential relations with the governor, and identified him with the war policy of the executive.

Shortly subsequently he was elected a member of the house of representatives of the territory. The issue in great measure at the election of 1856 was "Stevens" and "Anti-Stevens". The Whig party had ceased to exist; and those who know how strongly Judge Strong was influenced by personal associations and surroundings, his party a matter of the past, and with him a secondary consideration, the politics of the territory almost entirely based upon personal support of personal policy, will not for a moment be surprised that Judge Strong espoused the cause of his client, and cast his political lot with his personal friends. He gave his adhesion to the Democratic party, not to the Republican organization, which had just been inaugurated in the territory. At the session of the legislature he championed Governor Stevens and his war policy. At that session, upon him devolved the duty of conforming the various practice acts of the territory, the laws for the impaneling of juries, and providing for terms of court, to a recently passed act of Congress, which limited the courts the expenses of which were borne by the United States to three, to be held only at three places.

In 1858, Hon. O. B. McFadden having been promoted to the office of Chief Justice, Judge Strong was appointed associate justice, succeeding Judge McFadden as judge of the first judicial district. He held this office until succeeded by Honorable James E. Wyche in 1861.

Judge Strong continued to reside and practice law within Washington Territory until December 1862, at which time he removed to Portland, Oregon. He at once acquired an extensive and profitable general practice, but later on was almost exclusively engaged in the business of the Oregon Steam Navigation Company, whose counsel he continued to be until the transfer of their interests to the Henry Villard combination, resulting in the organization of the Oregon Railway & Navigation Company as its successor.

Thereafter he gradually retired from active practice. His large business was ably handled by his two very intelligent and competent sons, Fredric R. and Thomas Nelson Strong; and the good old man rested from his long and arduous professional labors. From 1883 the profession had been abandoned by him; yet he was not idle. His busy pen continued to work in treasuring the reminiscences of early years, of the men who had been his cotemporaries, and the events in which he had been so conspicuous an actor.

In April 1887, the full three-score years and ten completed, that stalwart frame, that manly and robust form, succumbed to age and bodily infirmity; that vigorous intellect, that active brain, that large, generous heart yielded to the inexorable. An active, busy, useful life was ended.

He was a most untiring worker; and few indeed could accomplish so much. His mind was of the most active and vigorous character; and he carried to his practice at the bar, or his administration upon the bench, that marked individuality for which he was distinguished. He was always positive. No uncertain language, nor words of compromise, nor demagogic attempts to conciliate the public, marked his enunciations of a conclusion reached. He was one thing or the other; and hence he was at times the object of ultra and bitter partisan criticism. But that never swerved him from his own chosen line of duty. Neither did such criticisms influence him to personal controversy or justification. He ignored those assaults, and was as kind and urbane to those who censured his judicial acts as though they had spoken of him in terms of laudation.

As a judge none were readier than he to seize instantly the pivotal points of a case. Few indeed possessed greater acumen power of analysis or resources to fortify the conclusion reached. As a speaker he was fluent, earnest, impressive, -- too practical to be eloquent. As a lawyer, counselor, legislator or judge, he was alike at home in each capacity. His forte, however, was perhaps in felicitous, happy and forcible expression of law. In dictating a decree, making a record of an order or judgment, he needed no form-book. He had no superior in announcing in the fewest appropriate words a conclusion of law or a judicial determination. He was a natural clerk. He made practice, molded procedure, and established precedents, for his bar to follow. His orders of court, his decrees in chancery, his drafts of laws, are models of expression. How aptly he placed the right word in the right place. As a lawyer he was ingenious and untiring in resource. Thoroughly equipped for every-day practice and every vicissitude, he was learned in the science of his profession, and loved it as such, and was thoroughly devoted to the cause of his client, for whom he labored to succeed while there was any hope to win. As a judge he was patient, urbane, fearless, independent, unselfish, deferential to his brethren of the bench, and considerate to members of the bar.

Those who knew him in the early days, the old settlers of Oregon and Washington, will treasure his memory, will continue to recall his genial kindness, his encouraging and cheerful sympathy.