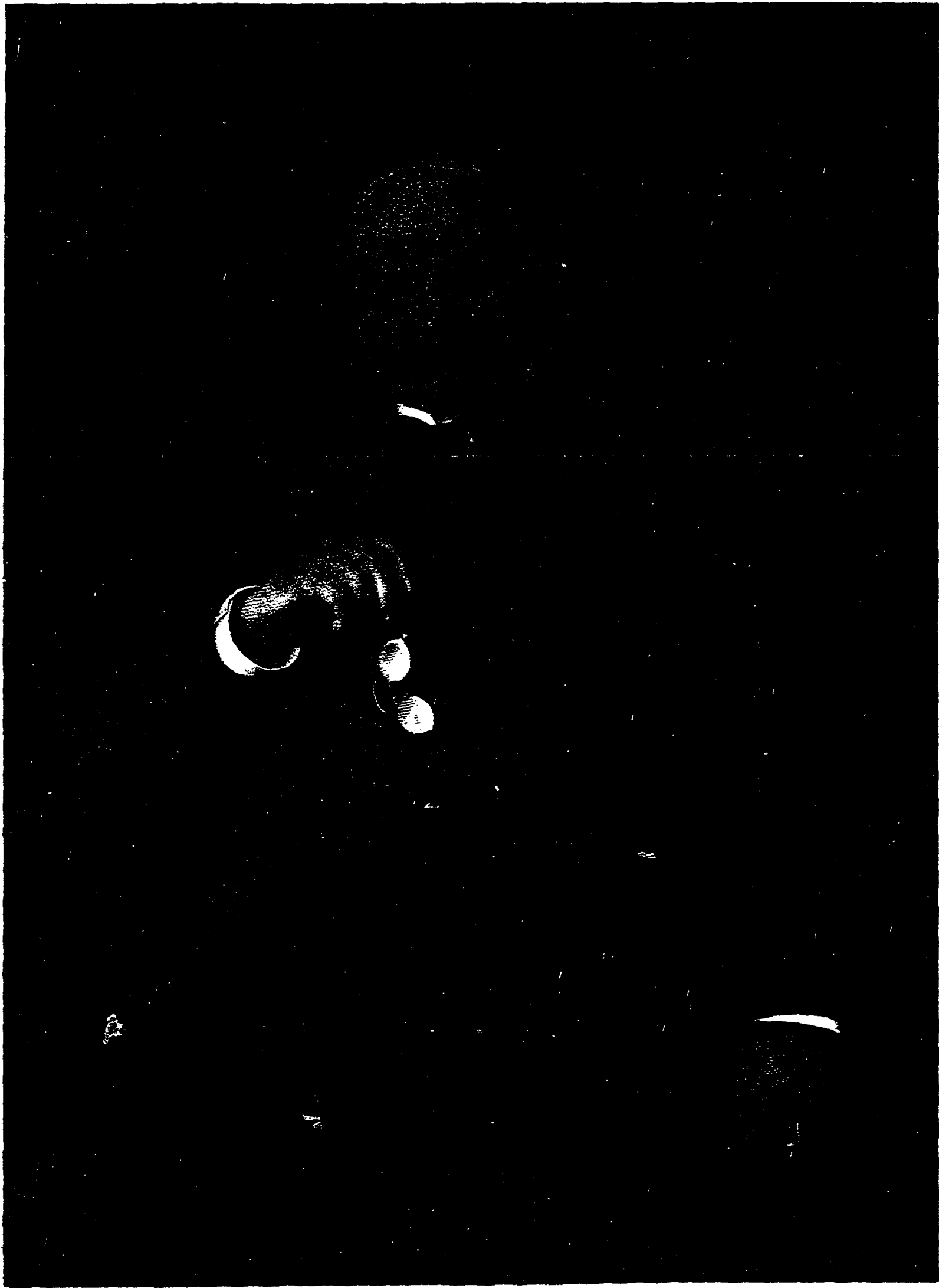


Memorial of Mr. Justice Frank Baker

An Appendix to Baker Ancestry

Chicago
1916



—Hendy Baller.

In Memoriam

Frank Baker

Born May 11, 1840

Died July 9, 1916

Foreword

It was a great satisfaction to Judge Baker that his strength permitted him to prepare for the press, in his last illness, the results of his researches into the family history, to see the completed book and to receive the many expressions of appreciation which it called forth.

Now that only his memory is left us, it seems proper to complete his work by adding some account of the author. His public life has received its fitting tribute from the bench and bar of Chicago, the record of his professional career is adequately set forth in the memorial proceedings of the Appellate Court which are reprinted here. To them has been added an attempt to present the more intimate personal side of his life. It is especially addressed to his kinsmen, who will see in it how many of the qualities of his ancestors, which he took such pride in recording, Judge Baker himself inherited.

Proceedings of the Appellate
Court of Illinois for the
First District in Memory
of the late

Hon. Frank Baker

A Justice of this Court

At a regular term of the Appellate Court of Illinois for the first district begun and held at the Appellate Court room in the City of Chicago on Tuesday the third day of October, nineteen hundred and sixteen.

Present:

Hon. William H. McSurely, Presiding Justice;
Hon. Jesse Holdom, Associate Justice.

There were also present the Justices of both the branch courts:

BRANCH 1,

Hon. Albert C. Barnes, Presiding Justice;
Hon. John P. McGoorty, Associate Justice;
Hon. Charles A. McDonald, Associate Justice.

BRANCH 2,

Hon. John M. O'Connor, Presiding Justice;
Hon. Clarence N. Goodwin, Associate Justice;
Hon. Thomas Taylor, Associate Justice.

Memorial Proceedings

PRESIDING JUSTICE MCSURELY : As we all know, during this vacation period just passed, after a long continued and heroic conflict with disease, Mr. Justice Frank Baker died. The courts of this County and State will not soon lose the impress of his personality and the high, distinctive quality of his work. It is appropriate that this Court should upon its records spread some permanent memorial, expressing our esteem for him and his work. Mr. Justice Holdom has prepared and will read such a memorial. Mr. Justice Holdom.

MR. JUSTICE HOLDOM: Brethren of the Bench and Bar: Since the adjournment of this court for the summer vacation and on July 9, 1916, the Hon. Frank Baker, the Senior Justice of this court, passed to his eternal reward.

It is fitting at this time, the first sitting of the court following the death of Mr. Justice Baker, and when the place so lately occupied by him is still vacant, to take a short retrospect of his useful and manly career.

Judge Baker at the threshold of his early manhood answered his country's call to fight to preserve the Union of the States. He enlisted in the 84th Regiment of Volunteers of his native State of Ohio. Upon his retirement to private life he continued the study of the law, which had been interrupted by his military service, and entered upon its practice in his home town of Tiffin, Ohio.

In the year 1873, Judge Baker came to Chicago and resumed the practice of his profession, which he prosecuted successfully, making his way at this bar as a forceful, astute counselor and a painstaking, convincing trial lawyer. He was equally masterful before court and jury. He was well grounded in the fundamental principles of the law and always abreast of judicial interpretation. After fourteen years at the Chicago Bar, where he won his spurs in the forensic forum, he was elected in June, 1887, a Judge of the Circuit Court, to which position he was five times successively returned by the votes of the people. In June, 1903, the Supreme Court assigned Judge Baker for service in Branch "B" of this court, where he served for six years, and by successive appointment thereafter he served seven years in this court.

Judge Baker's most enduring monument is the one which he erected for himself in his judicial writings. His first opinion appears in volume 108 of the Reports of this court, and his opinions appear in all the subsequent volumes to the present time—ninety volumes in all, covering a period of judicial service in this tribunal of thirteen years and a continuous active judicial service of twenty-nine years. In this large accumulation of judicial literature the profession will find its guides and landmarks. It embodies a store of judicial learning. So long as the common law exists the opinions which Judge Baker wrote will be consulted as authoritative repositories of its principles, not only in this State, but wherever the same rational system of jurisprudence may prevail. Judge Baker was hard working, painstaking and conscientious in the discharge of his judicial duties. At *nisi prius* he was a terror to the lawyers who tried their cases without due preparation. He never attempted to conceal his impatience with this class of practitioners. Yet, under a brusque exterior he concealed a kindly disposition and a gentle nature. He was more than tolerant of the young lawyer and ever ready to aid over the rough places those who diligently worked. Judge Baker was respected by the Bar for his legal learning and attainments and the strength and probity of his character.

Judge Baker's mind was essentially analytical and logical. He had a great faculty for grasping the controlling principles involved and disentangling them from immaterial considerations and arriving without difficulty at a logical and correct result. This power to analyze cases and thereby to indicate the true principles by which the decision should be governed, rendered his assistance in conference particularly helpful to his associates, and it is in the conference room that his loss will be most severely felt by the surviving members of the court.

In political faith Judge Baker gave his adherence to the Democratic party, to whose tenets he was ever loyal; yet no party political proclivity was ever evident as a factor in his judicial conclusions. He fully realized that he was a Judge of all the people, and that his judgments must be environed by the law of the land. Judge Baker was cast in heroic mould. For years he endured acute physical pain uncomplainingly, like the stoic that he was. Notwithstanding this physical handicap, he never shirked a duty and discharged his full measure of judicial labor. Judge Baker is worthy to be classed with those other great judicial characters which the Democratic party gave to sit in the judgment seat in this County—McAllister, Adams, Rogers, Tuley and Moran—and to sit with them high on the pedestal of judicial fame.

Judge Baker outlived the threescore years and ten span of life allotted to man by Holy Writ, for at the time of his death he had passed his seventy-sixth year.

While Judge Baker was tenacious of life and unwilling to yield to the call of the Hereafter, yet when he realized that further struggle for life was futile, he calmly surrendered himself to the inevitable. In the full possession of his mental faculties and surrounded by his devoted wife and other members of his family, he peacefully passed to his eternal sleep "Like one who wraps the drapery of his couch about him and lies down to pleasant dreams."

The foregoing memorial minute, an expression of appreciation and affection for the life and character of our late Associate, will be spread at large upon the records of this Court, which he so adorned in his lifetime, and also printed in the current number of the Illinois Appellate Court Reports.

PRESIDING JUSTICE MCSURELY : We have here today a former Judge of the Circuit Court, a friend of Judge Baker's and a friend of all of us. The Court takes great pleasure in recognizing, in response, on behalf of the Bar, the Hon. Richard Clifford.

HON. RICHARD CLIFFORD : If the court please, the honor and privilege of responding on behalf of the Bar has fallen to me, but I much prefer that another had been chosen.

My relationship with the Judge was close since our election to the bench, and, well as I knew him, there is little for me to add to what has been so well presented in the course of the memorial, and, more than that, I will be found, here and there, repeating what has been already said.

If his wishes could be consulted, the ceremonies would be short and simple. "Speak of me as I am, nothing extenuate." He never wanted to be anybody but himself.

He was a trained lawyer, with a mind big and broad, and little use had he for pin points. He went directly to the marrow of the question. There was a turning point in every case, and he was quick to see it. His inquiry was always what was right, where was the justice of the case, and then he made up his mind what the law ought to be, and his first impressions were generally correct. His offhand opinion on a legal question was excellent. He was a diligent worker himself, and it is true, as the court has declared, he did not have much patience with a slovenly or lazy lawyer. His own training and study had been such as to make him accurate. For the first few years after his admission to the bar in Ohio he acted as clerk of the court, and he drew all his orders, and sometimes he used to say when careless lawyers would present papers to him to sign, "What is that?" It didn't look like an order, and it did not look like a judgment to him, a man who was so well trained and thorough.

In pleading he was unusually good, and it did not take him long to decide whether a declaration was good or not.

No doubt the Judge's manner at times, as has been said, was brusque, and some got a wrong impression

of him; yet he had a tender heart and was one of the kindest of men. His great love and affection for his home and family was noticeable; not that he ever spoke of it—he tried to conceal it. Those who knew him best liked him the best, and that is still a good test of a man.

In so many ways he was a model Judge—industrious, courageous, capable, honest and impartial. He neither knew plaintiff nor defendant. It was of no consequence to him who the parties were. Not a lawyer who ever lost a case before him doubted his honesty and sincerity.

Some thought that his reputation grew since his elevation to the Appellate Court, but for myself, I always said of him, he was one of our best lawyers on the Bench. And good opportunity had I to form an opinion of him, for, in our daily walks, many points of law were discussed.

The Judge was an unostentatious and very modest man. He never spoke of himself nor of his position on the Bench; he never alluded to it in any way nor to his fine ability. He was a good scholar, but never prone in any way to display his learning. With the people he always stood high. He never courted popularity, nor did he ever try to gain public applause by any of his judicial opinions or utterances, and no one can say that he ever tried to gain favor with the Bar. In no sense was he a sensational Judge. Whatever case came to him, he was content with it. During his long public service no one ever questioned his motives, and he leaves an enviable record indeed. The memorial has truly said his reputation will rest on his decisions, which rank with the best appearing in the Reports. The lawyers will always consult them, knowing that there the principles of law were strongly and clearly stated, and that he was a Judge who seldom struck a wrong note.

Our Appellate Court has been unusually distinguished. And it is only of those who are not living am I now speaking. It would be hard to select three Judges from any court in this Union, State or Federal, who ranked higher than McAllister, Moran and Adams as lawyers, and to the illustrious list of the dead we may be permitted to add the name of Baker. There was not a sitting Judge on this Bench whose opinions were so often asked for by his associates, or more respected by them.

There is a vacant chair here, and, as has already been said, fortunate indeed will be this Court and this State, if his successor fills the position as well as he.

But let us speak about him as a friend also. He was a loyal friend, a good companion, and one of the manliest of men. He was as manly as he looked, and greater praise cannot be said. Often, when he was in the grip of his fatal disease, you would find him apparently oblivious to his sufferings, and he would appear as pleasant and agreeable as in his best days. He was a good, faithful servant of the people and well deserved his high reputation. He will be long remembered as one of the best Judges Cook County ever had.

PRESIDING JUSTICE MCSURELY : I am sure we have all been moved by the exceedingly impressive tribute by Justice Clifford, unique and impressive, because I think we all know and feel that there was no tone or syllable of exaggeration in anything he said. It was a restrained tribute to an extraordinary man.

Speaking on behalf of the Court generally, we can echo and reaffirm what Judge Clifford has said. Not only was Judge Baker one of the best Judges that sat upon this Bench, but I know I speak the opinion of all the Judges here present, that we unanimously and unqualifiedly conceded that he was head and shoulders above any of us. We looked to him for advice, and he never failed. And speaking for those who were in the closer intimacy of friendship with him, those of us who were in daily contact with him and his personality, we are moved beyond expression at this sad loss.

Mr. Clerk, let the memorial minute as read by Mr. Justice Holdom and the response thereto by Judge Clifford be spread upon the records of this Court.

And this concludes our formal tribute to our late associate, Mr. Justice Baker.

Personal Memoir
of
Frank Baker
by his daughter
Ethel Baker Andrews

Personal Memoir

In 1835 Northern Ohio was pioneer country, and when Richard Baker built his log cabin in the woods of Seneca County, he was following the same urge which had brought his Puritan ancestors from England and kept the intervening generations moving always to the west. The following year he married Miss Fannie Wheeler, the seventeen year old daughter of Grattan H. Wheeler, then a member of Congress and for many years State Senator of Steuben County, New York. Judge Baker was their second child, and before his birth the cabin had been replaced by a comfortable dwelling house, surrounded by a farm of four hundred acres, which is still in possession of the family. Here Judge Baker spent his boyhood, and it was by no means a hard or narrow life. Richard Baker was a man of distinction among his neighbors from the first; large of frame, erect and commanding in bearing, with dark hair and eyes, he showed decidedly the traits of the early settlers of New England. Firm and uncompromising in his notions of right and wrong, prompt and decisive in action, public spirited, broad minded, and warm hearted, he represented in that new country the best traditions of the older States. Though a terror to the evil doer, he taught the infant class in the Sunday school, and the little children waited at their gates for a chance to ride with him to salt the sheep. He early gave up the raising of barley because it had to be sold to brewers, involving him, he thought, in a personal responsibility for the beer produced. His wife was always his efficient helpmeet, and their home was for more than fifty years one to which neighbors came for comradeship and counsel, the poorer ones for advice and material help; itinerate preachers, of whatever denomination, stayed at their house, and friends and relatives were constantly coming and going. The household was patriarchal and every morning and evening it was gathered together, 'maid servants and men servants and the stranger within their gates,' while Mr. Baker read a chapter from the family Bible and made a simple prayer. They not only raised to manhood six sons of their own, but found room in house and heart for four orphan nephews and the son of a less fortunate neighbor; eleven stalwart men carried the impress of that home through lives of usefulness and honor. The boys all went to the country school and, of course, helped on the big farm, but the father was careful that the tasks should be according to their strength and that the best tools should be put in their hands.

When Frank Baker was a boy of twelve he accompanied his mother on a visit to New York State and there, perhaps, acquired his lifelong interest in the characters of his ancestors and his desire for a wider field of activity than the farm afforded. Certainly, at the age of seventeen, he was ambitious for a professional career. His parents gladly provided the means for his education, and he was graduated at Ohio Wesleyan University at Delaware in 1861. The small colleges of those days lacked much of the equipment of our present universities, but they produced men who in character and scholarship compare favorably with the graduates of today.

Apart from the curriculum, his years at Delaware greatly influenced his after life. He helped to found the local chapter of the Sigma Chi Fraternity, an organization which enjoyed his active interest and loyal affection for more than half a century; the fiftieth anniversary of his initiation being celebrated by the Chicago Alumni Chapter in 1911. There also he met Miss Eliza Warner, of London, Ohio, who several years later became his wife. To her sympathy with his tastes and ambitions, she added a clarity of judgment and a mental poise which completed his more impulsive nature and made his home always a sanctuary from the turmoil of outside life. They were not demonstrative in their affections but his dependence upon her sympathy, his reliance upon her tact and judgment and wide charity grew with the years. A little woman, quiet and reserved in manner, everyone who knew them well appreciated that she was the final arbiter of all family questions, the never-failing source of inspiration and of healing. "The heart of her husband did safely trust in her."

Fortunate indeed are children who grow up in such an atmosphere of mutual confidence and respect. A year after his graduation he returned from the Albany Law School to enlist with his former classmates in the 84th Ohio Volunteer Infantry. His military service was short and uneventful, but he carried through all his life most tender and reverent memories of the friends of his youth who lost their lives on both sides of the great conflict.

Returning to Albany he was graduated in 1863, was admitted to the bar in 1864, and after spending some time in Washington and New York he returned to his home town of Tiffin, Ohio, and began the practice of law in partnership with Judge Pillars, a man of ripe scholarship and a great collector of books. Judge Baker had begun to buy books some years before. The old book stores of Albany and the fine shops of New York had added to his enthusiasm and introduced him to the lure of rare editions and luxurious bindings. A considerable part of his library was purchased while he was in Tiffin, also many engravings and etchings and old prints.

Always a Democrat, he became active in local politics, was appointed Assessor of Internal Revenue in 1866, City Attorney in 1867, Prosecuting Attorney in 1869. He was married in 1870 and in 1873 brought his wife and baby daughter to Chicago, where the second child was born.

It is not easy for a member of his family to speak of his home life while bereavement is so recent, but no record of his character is complete without it. Down in the growing city his days were spent in an atmosphere of strife. He took a manly pleasure in the battle of wits in the court room and soon became a figure in the political arena, but within his home he gave another set of impulses full sway. There all the tenderness of his generous heart found its expression. His love of the fine things in art and literature was merged into his desire that his girls should love and appreciate them as he did. My earliest recollections are of evenings when he read to us the fairy tales of Grimm and Anderson and the delectable Norse Tales of Dasent, Lane's Arabian Nights, with the wonderful steel engravings, the stories of Robin Hood and King Arthur, Pilgrim's Progress, in a vellum bound black letter folio, Thackeray, with his own illustrations, Dickens and Scott, Burns and Longfellow, Bryant's Iliad and Odessy, the English essayists, and Roman historians. For the so-called "children's literature" of our day he had a profound contempt, and one of his few strict commands prevented our ever enjoying "Dottie Dimple" or the "Elsie books". We owe to him also our introduction to the world of nature. Our Sunday mornings were spent in the woods between our home and Washington Park, where we learned to know the flowers, the birds, the trees, and the little wild creatures, called on all the new calves and puppies in the neighborhood and were blissfully happy in his companionship.

Early in the eighties he became interested in the art of the Orient, and Turkish rugs, Chinese vases, lacquers and bronzes began to be added to the books and pictures which already enriched his home.

In 1887 he was elected to the Circuit Court and in 1888 he built his home on Lake Avenue. He took the greatest interest in every detail, laying the foundations broad and deep, choosing the best of material and workmanship, and there his accumulating treasures found their abiding place. On the third floor, overlooking Lake Michigan, was his library, where he spent many quiet hours. His wonderful memory indelibly recorded all the information his wide reading accumulated, and his knowledge of American history was especially extensive. He was a member of the Society of the Colonial Wars, the Sons of the Revolution, and the Grand Army of the Republic, and took an active part in them all. He was essentially hospitable and was never happier than when his friends were at his table or enjoying with him the curious and lovely things he had collected.

It interested him in his later years to trace out the records of his colonial ancestors, and in 1914 he published the results of his studies in a book called "Baker Ancestry".

Before this time his daughters had been married; Ethel, to Mr. Edmund Lathrop Andrews, of Chicago, and Nora, to Captain S. M. Kochersperger, of the United States Army. The oldest grandchild received his name, and as other little ones grew into their share of his affections, he confided to a friend that "there comes a time in a man's life when his chief interest is in his grandchildren."

During most of his life he had an abounding physical vigor as much above the average as was his mental equipment. At one time he was fond of bowling and held the amateur ten-pin championship of the city. For years he walked the five miles from his home to the court room, every morning, summer and winter, in rain or shine. Six feet in height, with broad shoulders thrown well back and fine head erect, he was a familiar and a striking figure. Often he had the companionship of friends of similar pedestrian habits—most frequently Judge Clifford, Judge Holden or Judge Payne, and he reached his work in a glow of physical well being which invigorated the whole atmosphere of the court room.

In the spring of 1911 he suffered a serious illness, and the last five years of his life were an heroic struggle against physical weakness and pain. In 1915, in his seventy-sixth year, he accepted a renomination and made his sixth and last campaign. It was a remarkable experience, for there came to him, regardless of political differences or oldtime discords, such an outpouring of personal appreciation, such cordial support and approbation, as does not always brighten the last days of a long and active life. How great a source of satisfaction it was to him, only those could appreciate who knew how deeply he felt criticism or misjudgment. During the following winter, although most happy in the new court rooms on Michigan Avenue, enjoying and appreciating the respect and affection shown him by all his associates, he was saddened by the death of two young men who were dear to him, Matthew J. Corcoran, his personal bailiff for more than twenty years, whose loyalty and devotion had been as a staff to his declining years, and his son-in-law, Captain Kochersperger, a young officer of great promise and a man of the finest character. He tenderly welcomed to his home his widowed daughter and her baby girl, but his strength began to fail rapidly and only his strong will enabled him to observe the ordinary routine of his life. He attended the last conference of the judges of his Court before the summer vacation, which took place on the 19th of June, and the next day he went with his wife to a quiet spot in Wisconsin, where he had before found rest and refreshment. His close friend and physician, Doctor Foster McNary, received him with all tenderness. It was soon evident that medical skill was of no avail, and on Sunday morning, July 9, lying quietly, with his wife's hand in his, he faced the last final test of manhood with a serenity and calm courage which indeed "robbed death of its sting and the grave of its victory." To the Doctor's repeated offers of morphine he returned a quiet refusal and met the great enemy as Robert Browning, the manliest of poets, hoped to meet it—

Fear death?—to feel the fog in my throat,
The mist in my face,
When the snows begin and the blasts denote
I am nearing the place,
The power of the night, the press of the storm,
The post of the foe,
Where he stands, the arch fiend, in a visible form.
But the strong man must go,
For the journey is done and the summit attained,
And the banners fall.
There's a battle to fight ere the guerdon be gained,
The reward of it all.
I was ever a fighter, so one fight more,
The best and the last.
I should hate that death bandaged my eyes, and forebore,
And bade me creep past.

He had expressed his wish to lie in the little country cemetery of Rock Creek, in Seneca County, Ohio, where his people are buried. He had selected the old friends who should carry him to his grave. On a beautiful summer morning, while the quail called in the nearby fields, his wishes were carried out and in the presence of his relatives and the friends of his earlier days he was laid to his well earned rest.

His character was remarkable for its completeness. In all his personal relationships as son and brother, husband and father, kinsman and friend, not only was his loyalty unswerving, his affection deep, and his helpfulness ready, but the richness of his mind and heart brightened into charm the commonplace intercourse of everyday life.

Toward the poor and unfortunate his tenderness was only thinly disguised by his brusque exterior. I heard him say, answering a question as to why he liked to serve in the Criminal Court, "I feel somewhat like a physician in a hospital. These people need help, and I am glad to do what I can." He had great faith in our foreign population, sympathy with their difficulties, and pride in their progress. The things which aroused his indignation were injustice and oppression, inaccuracy and affectation. While it must be admitted that he was a master of scorching invective and biting sarcasm, his wrath was almost always a righteous one, and the offenders were not apt to forget the rebuke. For himself he bore no malice to any man. His resentments, if sharp, were shortlived and left no trace behind.

Young men were especially attracted to him, and among the tributes we value most are the letters which express gratitude for wise counsel and assistance at a critical period in some life.

In addition to the fullness of his personal relationships, he lived a professional life of strenuous activity up to the very last, and yet found time for really profound historical research, for active participation in civic affairs, for an unusually wide and intelligent interest in both art and literature and for a boy's enjoyment of out-of-doors.

His religion was a reverent recognition of the fatherhood of God and the brotherhood of man. Late in life he gave public expression of his faith by uniting with the Methodist Episcopal Church of which his father and mother had been members. He spoke little of his spiritual relationship with God. He entered into his closet and shut the door, returning to the world with strength to walk uprightly among men.