

MEMBERS OF THE SEATTLE BAR WHO DIED YOUNG*

Irving Ballard was one of the young men of Washington Territory whose legal education was acquired in a practical way by reading Blackstone, Kent's *Commentaries*, *Story On The Constitution*, and other text books, and by doing clerical work in the office of a practicing lawyer. Being a diligent student, such reading and experiences added to an academic education, native talents and sterling character, qualified him for admission to the bar.

He was the oldest son of Dr. Levi W. Ballard, who laid out a town on his farm in the upper White River valley, which is now the flourishing City of Auburn. Dr. Ballard named the town "Slaughter" to honor the memory of Lieutenant Slaughter of the United States army, who was, in the Indian War of 1855-6, killed by hostile Indians in a night attack on his camp in the immediate vicinity. An Act of the Legislature changed the name of the town to Auburn. General Grant's *Personal Memoirs* narrates that Lieutenant Slaughter regretted being in the army instead of the navy because as an officer in the navy he might have had a larger share of duty on land. He had suffered from seasickness in making successive voyages to the Pacific Coast and returning to the eastern states, pursuant to orders.

Irving Ballard was born in Ohio, but with his father's family he came across the plains to southern Oregon where he lived during the period of his youth; when he was twenty years of age, the family moved to the White River farm, and then he was a teacher of country district schools for several years. In boarding around the district, the teacher was a respected guest in the homes of his pupils, which was a polishing experience for a young teacher. His manners were observed by juvenile critics, and he acquired the art of conversation under a sense of responsibility for unwise utterances, for sayings of the teacher made matter for gossip and discussion in the neighborhood.

Mr. Ballard was a student and clerk in the office of one of the prominent lawyers of Portland, Oregon. He was a business man as well as a good lawyer. After admission to the bar he acquired ownership of the steamboat *Zephyr*, and while he practiced law as the senior member of the firm of Ballard & Inman

*In the *Washington Historical Quarterly* for April, 1925, pages 122 to 131, Judge Hanford discussed another group of Seattle lawyers under the same title.

at Seattle and Steilacoom, his brother, Captain William Rankin Ballard operated the steamboat, making tri-weekly trips on the route from Seattle to Olympia, which was a profitable business. We traveled on the *Zephyr* in going to the Supreme Court, which consumed one whole day going and another returning.

In 1878 Mr. Ballard was elected Prosecuting Attorney for the Third Judicial District, which comprised all the Puget Sound Counties north of Thurston; terms of the District Court were held twice annually at Steilacoom, Seattle, Port Townsend and Snohomish City. He was re-elected in 1880, but died during that second term, in the 36th year of his age. He was married to an estimable lady, and surviving him are four sons and one daughter.

Henry E. Hathaway, when a youth, came to Seattle from Connecticut. Enroute he was shipwrecked, being a passenger on the steamship *Golden Rule*, which in 1865 grounded upon a reef on the Atlantic side of the Isthmus of Nicaragua. He was a student in the University of Washington Territory when Rev. George F. Whitworth was President of it. During many years that institution struggled to exist, and owing to periodical suspensions for lack of funds to sustain it, Hathaway was deprived of opportunity to complete a college education. He was studious, and by self-education qualified himself as a public school teacher. Then for several years he alternated between teaching and working as a farm hand.

He studied law in the office of Waldo M. York, who was then the Probate Judge of King County, and was admitted to the bar. He became Judge York's successor in the office of Probate Judge. His law practice was mostly office business, which was lucrative, and he prospered financially. He was married to one of the daughters of Charles D. Emery, a Seattle lawyer. Major Emery Hathaway of the United States army, is the oldest son of that marriage.

I remember the occasion of my last meeting with Henry Hathaway. It was in the time of the anti-Chinese agitation, and he was doing a citizen's duty as one of Sheriff McGraw's host of deputies. He died soon after that disturbance.

Miss Lelia J. Robinson was the first lady member of our bar. She had been unsuccessful in contending for the privileges and honors of an attorney in Massachusetts, so she came here in 1884 while the female suffrage law of Washington Territory

was in force, which was subsequently by a decision of the Supreme Court declared to be invalid. Here she was admitted to practice, and her brother attorneys treated her with courtesy and respect. Judge Greene appointed her to defend an impecunious Chinaman indicted for smuggling. I prosecuted and made a good case against the defendant, but the persuasion of his charming defender won a verdict of "Not guilty." There was no effort to restrain the score of women in the court room from making a noisy demonstration of their joy.

In defending a suit for divorce on the ground of abusive treatment, Miss Robinson persisted in cross examination of the weeping plaintiff to the point of requiring her to tell the very words of the brutal husband that constituted brutal treatment. Her success in that respect elicited an answer that was shocking, and won the divorce. In my experience I have observed many cases lost by unwise cross examination on vital points, where witnesses manifested unwillingness to divulge important facts.

Miss Robinson did not remain out west very long. I have been informed that her ambition to break down the rule excluding women from the legal profession in Massachusetts was rewarded by success, and that she died young; this may be a mistake as to the fact of her death.

Georgè H. Fortson was a young man whose fine presence, character, abilities and habits bespoke a bright career as a lawyer. He came from the State of Georgia, and was admitted to practice in 1889. He was too modest to become conspicuous during the period of hard times that prevailed, prior to the sensational revival of business activity in 1897, but by industry and faithfulness earned a reputation as a capable lawyer, and he was an efficient officer of Company B of the National Guard. He married one of the daughters of George F. Frye, who was one of the pioneers of Seattle. In 1898, as Captain of Company B, he went with the First Washington Regiment to the Philippine Islands. The regiment made a fine record there in arduous service, and participated in battles with the insurrectos that were incidental to acquisition of those islands by the United States. Among the casualties of the regiment in that stage of the Spanish-American war, Captain Fortson was killed while in performance of a soldier's duty.

Fred Rice Rowell was another popular lawyer of Seattle whose career was cut short by early death. He came from the State of Maine, after five years of practice in that state, and was admitted to practice here in 1888. He was a graduate of Colby

College, and a well educated lawyer. He had patriotic pride in his ancestry, being a descendant of Americans who were patriots in the time of the Revolutionary war. He was President of the Washington State Society of the Sons of the American Revolution, and a Vestryman of St. Mark's Episcopal Church, when his death occurred, April 27th, 1904.

General Eugene M. Carr was one of the most highly esteemed men who practiced at our bar. "Law is a jealous mistress," and devotion to it is essential to attainment of high rank as a lawyer. Carr was a rover. Affectionate regard for him, which was general, must be attributed to his activities in public affairs, and his genial disposition. He was a sincere friend, a good sport, good fighter and all kinds of a good man; highly educated, and a good case lawyer, but he never settled down to make law practice as his exclusive occupation.

He was a graduate of Norwich University, Vermont's military institution, also, a graduate of Columbia Law School. In seeking a location he went to Arizona, and was for a short time Clerk of the Circuit Court at Tombstone in that Territory. In 1883, he was a pioneer in Alaska, among the first of Americans to traverse the Chilcoot Pass, and in 1884, he came to Seattle and entered into partnership with Harold Preston. At that time Seattle was an attractive point for young men recently graduated from college. The City was growing and persevering young lawyers managed to exist in competition for a share of the business obtainable. Carr took an active part in community affairs—especially the military. The National Guard was not organized, but a company, called the Seattle Rifles existed, of which he was Second Lieutenant.

In the summer of 1885, the anti-Chinese agitation began and persisted in a way that led to disturbance of public tranquility. The agitators were successful in enlisting the coal miners, the unemployed and transient sojourners in a movement to expel all Chinese inhabitants from Puget Sound. To resist that movement, Mayor Yesler, Sheriff McGraw and citizens took a firm stand and prepared to combat lawlessness, the effect of which was failure to carry out the expulsion program in Seattle, as it was in Tacoma, where a mob did drive all the Chinese from that City and burned their habitations. After that occurrence, a meeting in Frye's opera house was held, which was designed for friendly discussion of the situation, in the hope of uniting the people on a line of policy favorable to maintenance of law and order. The

first speakers in the meeting were of the anti-Chinese element and arrogant in declaring "The Chinese must go," peaceably, or else by compulsion. When Judge Thomas Burke was introduced to answer those speeches, he was greeted by a hostile demonstration; part of the crowd was there, not to hear reason but to sway the meeting adversely to the purpose for which it was designed. A man named McGrath was the loudest noisemaker; Carr and myself were together, near him in the back part of the house—we quickly moved to positions on either side of that man—I did not hear what Carr said to him, but he subsided, and the demonstration was partly subdued. Then, George Venable Smith, a leader of the anti's, commenced to make a plea for free speech. Judge Burke resented that officiousness, and by the magnetic power of an orator silenced the audience. He boldly denounced disloyalty, and warned wage earners of the evils to come upon them as consequences of lawlessness overriding law, existing for protection of the weak and defenseless. The effect of that mass meeting was only to emphasize the antagonism between different elements of the community.

The Chinese inhabitants of Seattle were not molested immediately, but on the 7th day of February, 1886, a determined effort was made to drive them out of the City. Sheriff McGraw's force of armed deputies had been organized in companies of Home Guards, and Carr was Captain of one of those companies. The Anti-Chinese Committee had arranged for transportation of the Chinese to San Francisco on the steamship *Queen*, and succeeded in driving them to the dock where that vessel was moored, but embarkation was halted by a writ of habeas corpus, which required them to be brought before Judge Greene, the following morning, and then, they were kept on the dock, guarded by a committee of the anti's. At midnight, Carr with his company, took possession of the dock, and early the next morning warrants for arrest of the committee were placed in his hands. After lodging the committee in the county jail, he joined the main body of Home Guards, under command of Captain George Kinnear, which then escorted the Chinese to the Court House. At the conclusion of Court proceedings they were all escorted back to the dock where their portable belongings had been left. Some of them departed on the *Queen*, and about two hundred who chose to remain were escorted back to their habitations, but enroute, at the intersection of Main Street and First Avenue a mob was encountered, and an attempt was made to seize guns in the hands

of Home Guards. A few shots were exchanged, and a leader of the mob, named Stewart, was mortally wounded. Captain Kinnear ranged the Home Guards in a line across First Avenue, facing the mob and protecting the Chinese behind it. The company of Seattle Rifles came and executed the order of its Captain—"With ball cartridges load," and Captain J. C. Haines with Company D marched through the mob. Captain Kinnear selected two of his men to push the rioters back for a space in front of his line. One man shouted for a rush to seize the guns. There would have been more blood shed, if such an attempt had been repeated, but the response was a call for that man to lead the rush, and he replied, "I am not a leader." Then, a speech was called for and a box to stand on was produced. John Keane stepped upon it, but instead of rousing the crowd to fury he said: "There's been trouble enough this day, all of you go to your homes." Then, there being no further manifestation of disposition to obstruct them, the Chinese proceeded to their quarters, and the Home Guards marched to the Court House where citizens were holding a conference with Judge Greene and Governor Watson C. Squire.

While that conference was being held, a constable came with a warrant for the arrest of Carr, Judge Burke, Frank Hanford, D. H. Webster and Rev. L. A. Banks for alleged murder, issued by G. A. Hill, a Justice of the Peace. The obvious purpose of it was to get those men separated from the ranks of the Home Guards, so that the mob might lay hands upon them. The man who made the affidavit on which the warrant was based, has never been identified. The constable was detained until the City was put under martial law by Governor Squire's proclamation, which prevented him from arresting either of those men. Subsequently, all of them except the clergyman gave bail for their appearance in Court to answer the accusation. At the next ensuing term of Court a grand jury took cognizance of the case and made a report, exonerating each of them. In fact, they did not kill Stewart, or fire a shot at the time of the riot.

General John Gibbon came to Seattle with a battalion of the 14th U. S. Infantry, and he governed the City two weeks while martial law was in force. During that time the police force was re-organized, and the National Guard of Washington Territory was organized, which included a new company of loyal citizens, designated as Company E. Carr was its Captain and ten other Seattle lawyers were enrolled as members of it. They were R. B. Albertson, George Hyde Preston, Harold Preston, Joseph F. Mc-

Naught, Eben S. Osborne, A. E. Hanford, C. H. Hanford, W. A. Peters, H. M. Hoyt and W. D. Wood. Carr continued to serve as an officer of the National Guard ten years, and was successively Assistant Adjutant General, and commander of it with the rank of Brigadier General. The honor of that highest rank was conferred upon him by Governor McGraw.

When the Northern Pacific branch line over the Cascade Mountains from Pasco to Tacoma was being constructed, Carr was employed several months in that railroad work. About that time, he was married to Miss Alice Preston. He was in active practice as a member of the firm of Carr & Preston until his departure for the Yukon River in 1897, and he served one term as Prosecuting Attorney for King County, immediately after the State Government superseded Washington Territory.

In July, 1897, a ton of gold taken from Klondike Creek in the upper Yukon River country was brought to Seattle by the steamship *Portland*, and then the lure of that northland was irresistible. Carr had been in the region of the discovery in 1883, and was eager to get ahead of the multitude of argonauts in haste to go there. The *Portland* was berthed for a return voyage to St. Michael, and he decided to go in, by the reverse way that the gold had come out, that is by taking passage on ship to the mouth of the Yukon River and thence by river steamer to Dawson. The ship was loaded to capacity by passengers and their outfits, Carr and Ex-Governor McGraw included. They were disappointed by failure of the river steamer to reach destination before navigation of the river was closed for the season by ice, and were obliged to spend the long winter at a place called Rampart in the interior of Alaska. In that latitude the seasons alternate between daylight and darkness. In the former there is light sufficient for taking photographs from two o'clock A. M. until ten o'clock P. M. and darkness prevails a corresponding number of hours, nearly half of the year. Rampart was shut in. No communication with the outside world was possible, and there was seldom any wind to make a noise. Awful stillness added to black darkness made the period of detention extremely gloomy. The presence of a woman gave more cheeriness than anything else in the camp; she did not have a coffee mill, so to have coffee ground, made frequent errands to the cabin occupied by Carr, the Governor and their associates, and chatted pleasantly while the grinding was being done. Grinding the lady's coffee was a

privilege enjoyed so much that the men claimed it in rotation. Every one jealously insisted on having his chance.

Coffee was precious in that country. On a prospecting trip using a dog team and sled for hauling tools, blankets and grub, an accident caused the spilling of coffee on the moss covered ground. Carr assumed the task of picking up the grains, and persisted until it was finished despite being urged to move on. He had to recover the last grain before he would desist.

In the winter of 1898, after the last opportunity for passage home by any kind of public service carrier, Carr wanted to come home, and what he wanted to do, he would do. What everybody else regarded as impossible, was not so to him, and obvious danger hindered him not. With a dog team he made the perilous journey from the interior of Alaska to the coast, traversing uninhabited country destitute of roads, braving snow, ice, intense cold and winter storms, and in the most dangerous part of the way he had no companion except his dogs.

The mining venture was not abandoned, with Mrs. Carr he returned to his claim on Little Menook Creek, and they remained there one year, the reward for which was in experience rather than in any considerable amount of gold. Mrs. Carr said that, "it was a wonderful experience, we were very comfortably and happily situated." Too much at home, a husband is apt to become a nuisance, but for connubial bliss, house a couple in a rustic cabin where lodge meetings do not entice him from his home fire-side, and pink teas, gossiping clubs and bridge parties do not engross the wife's intellectual activities. In the long winter spent together in that region, the light of their smiling faces dispelled darkness of the northland.

In the summer of 1900, Carr's half brother, and a cousin were drowned in Lake Washington. The cousin, Clark M. Carr, was a young lawyer who had recently come from Illinois, and had barely entered upon his profession. To find the bodies in Lake Washington was a difficult undertaking, but it was characteristic of Carr to exert his energy in an effort to accomplish it. He did that, and was successful in recovering both of them. On a previous occasion, when G. Morris Haller, Dr. Thomas T. Minor and Louis Cox were drowned in Puget Sound, he was the main push in the search for those bodies, which was rewarded by success in recovering two of them.

After his perilous trip homeward from Alaska, he proved his

ability as a case lawyer, in a number of important trials. I recall one case tried before me in the Federal Court, in which he took a leading part; I remember that case especially because I was impressed by the masterful and thorough development of the merits on his part. At one stage of the trial I admonished him for consuming too much time in eliciting testimony bearing on mere details. When Court adjourned for recess, he came to me protesting that he knew the importance of details, and that time sufficient to clarify the case was not time wasted.

He went to Alaska again in 1905, taking Mrs. Carr with him, and practiced law at Fairbanks, and was United States Commissioner there three years.

When he came back finally he gave more attention to a farm in Yakima County than to professional business. It is a peculiar circumstance that, a survivor of many perils in wilderness regions, was accidentally killed upon his own doorstep. He was alone at the farm when ice upon the doorstep caused him to fall, whereby he was fatally injured, in fact, instantly killed. A brief obituary contained in proceedings of the Washington State Bar Association of the year 1914, erroneously states that he dropped dead of apoplexy, but on a post mortem examination, it was found that his neck was broken. Thus, on the 20th day of January, 1914, the life of a noble man was ended.

C. H. HANFORD.