

THE MARITIME LAW ASSOCIATION OF THE UNITED STATES

MEMORIAL

of

HONORABLE HENRY GALBRAITH WARD

Prepared by CHARLES S. HAIGHT

HENRY GALBRAITH WARD, the son of the Reverend Henry Dana and Charlotte Galbraith Ward, was born in the City of New York on April 19, 1851. He was graduated from the University of Pennsylvania with high honors, at the age of nineteen, receiving at the same time both the degree of Bachelor of Arts and that of Master of Arts. He studied law in the office of Richard C. McMurtree, Esq., in Philadelphia, and was admitted to the Pennsylvania Bar in 1873. About 1880, he became a member of the Philadelphia firm of Biddle & Ward and, in 1883, he moved to New York. On August 13, 1891, he married Mabel Marquand. He was engaged in active practice, chiefly at the Admiralty Bar, until 1907, when President Roosevelt appointed him a Judge of the United States Circuit Court of Appeals for the Second Circuit. He served on that Bench until 1925, when he resigned. He died on the night of August 23-24, 1933.

These are the facts, but they are only the very bare facts with reference to Judge Ward's full life among us.

When Judge Veeder asked me to prepare a memorial for Judge Ward, to be submitted at this meeting of the Maritime Law Association, I gladly agreed to do so, but I asked to be allowed to write of his human qualities, rather than of his legal attainments as lawyer and judge. Others may record his history in the profession—tell of the important cases which he tried, of the large clients whom he

represented, and analyze and discuss his opinions in the cases which he decided, and all of that will be appropriate, but it will not give the real picture of the man. I do not claim that he was the greatest Federal Judge to sit in the Southern District of New York, but he was the most beloved member of the Admiralty Bar and of the Admiralty Bench, in our generation, and I prefer to write of him from the personal standpoint, as I knew him. I did not know him any better than other lawyers of his day, and the anecdotes which I shall tell could be duplicated by many, but they are of value just because his personal attitude toward me and toward *everyone* with whom he came in contact was precisely the same.

It was my good fortune to start practice at the Admiralty Bar in 1895, when Judge Ward was forty-four years old and in his absolute prime, professionally. At a dinner given in honor of Judge Brown, after he retired from the Bench, he referred to Judge Ward as "the Bayard of the Admiralty Bar," and that is what he was—handsome in appearance, graceful in bearing, gracious in manner, magnanimous always and a man who held the highest ideals and lived up to them.

Our first meeting was in his office, which was then at 160 Broadway. I had gone there, as I remember it, to serve a copy of a pleading or of a brief in a case in which he and Mr. Wheeler were opposed. I think that the date was 1896—about one year after I had been admitted to the Bar. When my document was sent in, I waited for an admission of service, and was surprised to be told: "Mr. Ward would like to see you." When I entered his office, youngster that I was, I was greeted with that friendliness which seemed always to radiate from his presence. He was not only interested in the case but appeared to be interested in me; discussed with me some of the legal questions involved and sent me away, after perhaps ten minutes of conversation, with a proud and swelling heart, of all of which he was wholly unaware.

It was my good fortune to start trial work fairly early, and it so happened that Judge Ward was not infrequently my opponent. I can remember that one of my earliest trials involved a collision between a Pennsylvania Railroad tug or carfloat and a steamer of the Starin Line. I needed the testimony of the entire crew of the Starin boat, but she was running on a regular schedule and to take the men off for examination meant to lay up the boat. I therefore asked Judge Ward if he would be willing to make a trip on the boat up to Glen Island and back and to examine the witnesses aboard. Without a moment's hesitation, he agreed, and so we

started off bright and early one morning—Judge Ward, Miss Powers and myself. During the direct examination of one of my first witnesses, I asked a question which produced a quick and emphatic protest. Judge Ward's indignant words were: "Haight, you know perfectly well that you have no right to ask a question like that." I stopped dead in my tracks. I hadn't known that I had no right to ask that question, but I was glad to take his word for it, and the question was withdrawn. From that time on, our relations became more and more friendly and, although we were practically never on the same side of a case, they became continually closer.

At the Bar, Judge Ward was a sharp contestant and a hard fighter, but he was always generous, whether he emerged from a case as winner or loser, and it is not always easy to be a graceful loser. I well remember the collision between the *City of Atlanta* and the *Pennsylvania R.R. Transfer No. 15*, which occurred in 1904. The case was tried before Judge Holt and he held *Transfer No. 15* solely at fault. After the trial, Judge Ward said to me: "Haight, if I had been held for half damages, I would have stood for it, but I will never pay you your full claim. I am going to appeal that case and reverse you." By that time I knew Judge Ward well enough to suggest that I would make him a wager that I could hold my decree and, immediately, he offered to bet me a box of cigars that I was wrong. The case was appealed and affirmed and, a day or two later, I received as good a box of cigars as the University Club could provide, with Judge Ward's card, upon which he had written this message: "I hope that my cigars are better than my law."

One of Judge Ward's most striking characteristics was his absolute simplicity of manner. He never stood upon his dignity. I was in his office once, discussing a case with Judge Hough, long before either of them went on the Bench. A question arose upon which Judge Hough wanted some information and he rang for an office boy and said: "Ask Mr. Ward to step here." His message was intended for young Artemas Ward, who was then in the office, but in a moment or two Judge Ward himself appeared. That was the only occasion upon which I can remember seeing Judge Hough blush with embarrassment, but he did blush then. He assured Judge Ward that he never would have sent such a peremptory message to him, and continued that assurance to me, long after Judge Ward had left. But Judge Ward himself did not show the slightest surprise, in the first instance, and I am satisfied that he would have

been perfectly willing to be summoned, if his presence had been desired.

Everyone who knew both Judge Ward and Judge Hough realized how close their relations were. They often differed on questions of law, but in everything else they were at one. At one of the dinners given in Judge Ward's honor, at the time of his retirement, Judge Hough told of his early association with Judge Ward, in Philadelphia, and said that there had been one attraction only which had brought him to New York and that that attraction was Henry Galbraith Ward.

I think that Judge Ward's character can best be summed up in a story which he himself told at the time of his retirement from the Bench. I do not remember the name of the precise town in Pennsylvania to which the story referred, but any name will serve, and the rest of the story I remember vividly.

An old Quaker was traveling on foot along a country road on a hot summer day, bound, we will say, for the town of Judson. Reaching a fork in the road and being uncertain which way to turn, he paused and waited for a wagon which he saw approaching in the distance. The wagon was piled high with household goods and when it was abreast of the old Quaker he stopped the driver and said: "I beg your pardon, sir, but will you tell me which is the road to Judson?" The driver, pulling up his horse, replied: "Well, if you want to go to the town of Judson, just follow the road that I have come, but why anybody wants to go there is beyond me. I have lived there for the last five years and the people are the meanest and the most contemptible that I have ever known. Thank God, I am moving away and am going to live with white people." The old Quaker paused for a moment and then said slowly: "Friend, thee will find it just the same where thee is going."

He resumed his journey, and after some time he came to another fork in the road and, once more, he was in doubt which way to go. Again, he saw a wagon approaching, loaded with household goods, and again he waited for information. He stopped the driver with the same inquiry as before and this time the driver replied: "If you want to go to Judson, follow the road which I have come and it will lead you directly there." And then, in a spirit of friendliness, he asked the old man if he expected to live in Judson, and when he was answered in the affirmative the driver said: "Well, I envy you. I have lived in Judson for the last five years and you will find there the kindest, the most hospitable and the friendliest people in the world. I am broken-hearted that, for business reasons, I must move away."

And, again, the old Quaker paused and then said: "Friend, thee will find it just the same where thee is going."

I have always loved that story and it illustrates, more vividly than anything that I can say, the reason why we loved Judge Ward. Because he was so generous, so friendly and so kindly, he brought out in us our best qualities and made us even a little like himself.

Judge Ward has long been missed by those who knew him at the Bar and on the Bench and now he has gone beyond our view forever, but we must all of us be glad that he has crossed the threshold and that his kindly soul has been released from the physical handicaps which had become a burden to him.